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ACTS AND ORDERS

ISSUED IN THE

NORTH WESTERN PROVINCES,

DURING THE YEAR 1859.

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BEN. SECRETARIAT LIBRARY

ACTS AND ORDERS

FOR THE

NORTH WESTERN PROVINCES,

For 1859.

Act No. III. of 1859.

An Act for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.

Preamble.

Whereas it is expedient that Cantonment Joint Magistrates should be invested with civil jurisdiction in certain cases within the local limits of their criminal jurisdictions, and that they should also be appointed Registers of Deeds within the same limits; It is enacted as follows:—

Executive Government may invest Cantonment Joint Magistrates with civil jurisdiction in certain cases.

I. It shall be competent to the Governor General in Council and to the Executive Government of any Presidency or place to invest the Joint Magistrate of any Military Cantonment bazar or station, within the limits of their respective Governments, with civil jurisdiction. Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions, in which the value in question shall not exceed the sum of two hundred Rupees, and which shall not involve any dispute of caste or any right of real property, against any person who, at the time when the cause of action arose, and at the time of the institution of the suit, shall have been or shall be subject to the Articles of War for the native army, or residing or carrying on trade or business within the limits of such Military Cantonment bazar or station, and not subject to any Articles of War made by Her Majesty.

II. Whenever the Joint Magistrate of any Military Cantonment bazar or station shall be invested with civil jurisdiction under the provisions of the preceding Section, and so long as he shall remain so invested, so much of Act XI. of 1841 as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such Cantonment bazar or station.

Part of Act XI. of 1841, suspended in Cantonments where Joint Magistrates are so invested with civil jurisdiction.

III. Whenever in either of the Presidencies of Madras or Bombay an Officer shall be invested with civil jurisdiction as aforesaid, and so long as he shall remain so invested, the rules for the trial of small suits in Military bazars at Cantonments and stations occupied by the troops of those Presidencies respectively, shall cease to have effect within the jurisdiction of such Officer.

Also the rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military bazars.

IV. Whenever the Joint Magistrate of any Military Cantonment bazar or station shall be invested with civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the native army, who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him, shall be sued elsewhere.

Persons amenable to the Articles of War for the native army, to be sued before Cantonment Joint Magistrates invested with civil jurisdiction, and not elsewhere.

V. Provided that nothing in the preceding Sections shall be held to alter or affect the rules in force in the Madras Presidency for the trial by punchayet of suits against Military persons belonging to that Presidency.

Saving of rules in force in the Madras Presidency for the trial by punchayet of suits against Military persons.

VI. No person carrying on trade or business within the limits of any Military Cantonment, or who shall have carried on trade or business with any such limits, shall be allowed to recover in any Court, held under this Act, any debt contracted in the way of such trade or business, or the loan of money within any such Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting the same, have been registered as a Military bazar-man within such Cantonment.

Trader not to recover any debt unless registered as a Military bazar-man.

VII. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having jurisdiction over the same, and if the defendant be a native officer or soldier, or a mustered Camp-follower, the summons to appear and answer to the claim

Procedure in cases tried under this Act.

shall be transmitted, for the purpose of being served on the defendant, to the Commanding Officer of the Corps or Detachment to which such defendant may belong; and the Commanding Officer shall return the summons to the Joint Magistrate, with the acknowledgment of the defendant endorsed thereon; or if the summons cannot be served, the reason of the non-service shall be stated. In other respects the rules of procedure and all other rules contained in Act XI. of 1841, *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)* shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable: provided that the decisions of the Joint Magistrate in cases cognizable by him under this Act, shall not be open to revision or appeal: and provided further, that it shall not be necessary to publish in Station Orders the decrees passed in such cases before they are carried into execution, and the Joint Magistrate passing the decree shall determine whether the execution shall be general or special, and shall proceed of his own authority with the execution.

No revision or appeal.

Execution of decrees.

VIII. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the same, it shall be competent to such Joint Magistrate to award against the plaintiff in favor of the defendant, such sum as he may consider a reasonable compensation to the defendant for the loss of time and expense to which he may have been subjected by the institution of the suit against him, and to proceed to recover the amount so awarded, under the rules applicable to execution of decrees passed under this Act.

Compensation may be awarded to a defendant, if suit be groundless and instituted without probable cause.

IX. It shall further be lawful for the Governor General in Council or for the Executive Government of any Presidency or place to appoint the Joint Magistrate of any Military Cantonment, bazar or station, subject to their respective Governments, Register of Deeds, within the limits of such Cantonment bazar or stations; and when such appointment is made, and so long as it shall continue in force, the powers of the Register of Deeds of the zillah or district in which such Cantonment bazar or station is situate, shall be suspended within the limits thereof.

Cantonment Joint Magistrates may be appointed Register of Deeds within the limits of their jurisdiction.

X. Whenever the Joint Magistrate of any Military Cantonment bazar or station shall be appointed Register of Deeds under this Act, all rules for the time being in force, applicable to Registers of Deeds, shall be applicable to such Joint Magistrate, and to the deeds registered by him, or brought to him for registry.

Rules applicable to Registers of Deeds to be applicable to Cantonment Joint Magistrates, appointed Registers.

XI. Every Joint Magistrate, who shall be invested with civil jurisdiction, or who shall be appointed Register of Deeds, under the provisions of this Act, shall, previously to entering upon the performance of his duties, make and subscribe before the chief Civil Officer, or, where there may be no Civil Officer, before the chief Military Officer of the district or zillah, in which such Cantonment bazar or station is situate, the oaths required by law to be made and subscribed by Civil Judges and Registers of Deeds respectively, or the declarations substituted for such oaths.

Oaths of Office.

ACT No. IV. OF 1859.

A Bill to make further provision for the removal of Prisoners.

WHEREAS, by the laws in force, the Executive Government of any Presidency or place is authorized to order the removal of any person under sentence of imprisonment, from the prison or place in which he is confined, to any other public prison or place of confinement within the same Presidency or Government; and whereas it is expedient to make temporary provision for the removal of prisoners in certain cases beyond the limits of the Presidency or Government, in which the place where such prisoners are confined is situate: It is enacted as follows:—

Preamble.

I. Whenever it shall be judged necessary or expedient that any person who has been convicted of any offence and sentenced to imprisonment for life, or for any term exceeding three years, should be removed to some place of confinement beyond the limits of the Presidency or Government within which he is confined, it shall be lawful for the Governor General in Council, or for the Executive Government of the Presidency or place, with the sanction of the Governor General in Council, to order the removal of such person from the prison or place in which he is confined, to any other prison or place of confinement, within any part of the territories which are or may become vested in Her Majesty by the Statute 22 and 23, Vic. c. 106, entitled, "An Act for the Government of India."

Executive Government empowered to remove certain prisoners beyond the limits of the Presidency or Government within which they are confined.

II. This Act shall continue in force for one year.

Duration of Act.

III. Any prisoner who, previously to the passing of this Act, shall have been removed in manner aforesaid from any prison or place of confinement to any other prison or place of confinement in the said territories, shall be held to have been lawfully removed.

Past removal so made, legalized.

ACT No. VIII OF 1859.

An Act for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.

Preamble.

WHEREAS it is expedient to simplify the procedure of the Courts of Civil Judicature, not established by Royal Charter; It is enacted as follows:—

CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

Civil Courts have cognizance of all suits unless specially barred.

1. The Civil Courts shall take cognizance of all suits of a civil nature with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras and Bombay respectively, or by any Act of the Governor General of India in Council.

Unless suits previously heard and determined.

2. The Civil Court shall not take cognizance of any suit brought on a cause of action, which shall have been heard and determined by a Court of competent jurisdiction, in a former suit between the same parties or between parties under whom they claim.

Revision of judgments of the Civil Courts.

3. The judgments of the Civil Courts shall not be subject to revision, otherwise than by those Courts under the rules contained in this Act, applicable to reviews of judgment, and by the constituted Courts of appellate jurisdiction.

No person excepted from jurisdiction by reason of place of birth or of descent.

4. No person whatever shall, by reason of place of birth, or by reason of descent, be, in any civil proceeding whatever, excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction of Civil Courts.

5.—Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if in the case of suits for land or other immoveable property, such land or property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of commencement of the suit shall dwell or personally work for gain within such limits.

Court in which suit to be instituted.

Transfer of suits.

6.—Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court, and to try such suit itself or to refer it for trial to any other Court subordinate to its authority, and competent in respect of the value of

the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal, which may be instituted in any Court subordinate to such Sudder Court, shall be transferred to any other Court subordinate to its authority, and competent in respect of the value of the suit or appeal to try the same.

Suit to include the whole claim.

Relinquishment of part of claim.

7.—Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

Joinder of causes of action in the same suit.

8. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Court may in certain cases order separate trials of such cause of action.

9. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Claim for recovery of land and for mesne profits to be deemed distinct causes of action.

10. A claim for the recovery of land and a claim for the mesne profits of such land shall be deemed to be distinct causes of action, within the meaning of the two last preceding Sections.

Suits for immoveable property situate within different jurisdictions of the same district.

11. If the suit be for land or other immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for immoveable property situate in different districts.

12. In like manner, if the property be situate within the limits of different districts, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court, to which such Court is subordinate,

Suits for immoveable property situate in districts subject to different Sudder Courts.

13. If the districts within the limits of which the property is situate, are subject to different Sudder Courts, the application shall be submitted to the Sudder Court, to which the district, in which the suit is brought, is subject; and the Sudder Court, to which such application is made

may, with the concurrence of the Sudder Court, to which the other district is subject, give authority to proceed with the same.

Suit for land situate on the borders of the Court's local jurisdiction and alleged by the defendant to be within another local jurisdiction.

14. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it be shewn that the land in dispute has been adjudged by competent authority to belong to an estate, village, or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint, or return it to the plaintiff in order to its being presented in the proper Court.

Proviso.

Declaratory suit.

15. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right without granting consequential relief.

CHAPTER II.

PRELIMINARY RULES.

Parties may appear in person or by recognized agent or by pleader.

16. All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader, duly appointed to act on his behalf.

Recognized agents.

17. The recognized agents of parties by whom such applications and appearances may be made, are—

Persons holding powers of attorney.

1st. Persons holding general powers of attorney from parties not within the jurisdiction of the Court, authorizing them to make such applications and appearances on behalf of such parties.

Persons carrying on trade or business for absent persons.

2ndly. Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

Persons authorized to act for Government.

3rdly. Persons being ex-officio or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

Persons specially appointed to prosecute a suit for any Sovereign Prince.

4thly. Persons specially appointed by order of Government at the request of any Sovereign Prince, or Independent Chief, whether residing within or without the British territories, to prosecute or defend a suit on his behalf.

Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and any thing which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to, or processes served on, a recognized agent relative to a suit, shall be as effectual for all purposes in relation to the suit as if the same had been given to, or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable to the service of notices and processes on such recognized agents.

Acts required to be done by a party to a suit in person may be done by his recognized agents.

Service of notices, &c., on recognized agents.

18. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall be considered to be in full force until revoked by a writing filed in the Court. All notices given to, or processes served on, the pleader of any party, or left at the office, or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual for all purposes in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

Appointment of pleader.

Service of notice on pleaders.

19. When an Officer or Soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the Officer or Soldier in the presence of his Commanding Officer, who shall countersign the same, and it shall be filed in the Court. When so filed, the countersignature of the Commanding Officer shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

Officers or Soldiers who cannot obtain leave of absence may authorize any person to appear for them.

20. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person, in the same manner as the Officer or Soldier could do if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such Officer or Soldier. And all notices or processes relative to the suit which may be served upon any person who shall be so authorized as aforesaid by an Officer or Soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit, as if the same had been served on the party in person or on a pleader appointed by him.

The person so authorized may appear personally, or appoint pleader.

21. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Exemption of certain women from personal appearance.

22. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdiction of the principal Civil Court of each district shall from time to time be forwarded to such Court by the local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the district.

Government may exempt certain persons from personal appearance.

23. Every process required to be issued under this Act, shall be served at the expense of the party, at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the cost of such service shall be paid into Court before the process is issued.

Cost of serving process.

Requisite sum to be paid into Court before process is issued.

24. If any plaint, written statement, or declaration in writing, required by this Act to be verified, shall contain any averment, which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for false verification of plaint, statement, &c.

CHAPTER III.

OF A SUIT TILL FINAL DECREE.

OF THE INSTITUTION OF SUITS.

25. All suits shall be commenced by a plaint which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Suits to be commenced by plaint.

26. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court, and shall contain the following particulars:—

Particulars to be given in the plaint.

1.—The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action, and when it accrued: and, if the cause of action accrued beyond the period

ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances:—

If the suit be for money due on a bond or other written instrument:—, Payment of due on (*a bond or other written instrument, as the case may be*), for the sum of , bearing date the day of ,and payable on the day of namely, ...

Principal	
Interest	
Amount paid (if any)...	
Balance due	

If the plaintiff claim exemption from any law of limitation, say—" The plaintiff was an infant (*or as the case may be*) from the day of to the day of "

If the suit be for the price of goods sold:—Payment of on account of maunds of (*rice, indigo, sugar, or as the case may be*), sold on the day of and the price of which became payable on the day of as per account at foot.

If the suit be for damages for an injury done:—Payment of on account of injury done to the plaintiff, [*here set out the nature of the injury, and state the particulars of the pecuniary loss* (*if any*).]

4.—When the claim is for any property other than money, its estimated value.

The following is an instance:—

If the suit be for an estate or for a share in an estate paying revenue to Government:—Possession of the estate or of share in the estate, called , situate in the Zillah of the sudder juma of which is and estimated value of which the plaintiff was dispossessed (*or forcibly or fraudulently dispossessed, if the case be so*), on the day of ; or to which the plaintiff became entitled by inheritance from (*or by gift, purchase, or otherwise, as the case may be*), on or about the day of

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified: and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its Officers in his official capacity, or any Corporation, or any Company authorized to sue and be sued in the name of an Officer or Trustees, the words " The Government," or " the Collector of " or otherwise, as the case may be, or the name of the Corporation, or the name or names of the Officer or Trustees of the Company, shall be inserted in Nos. 1 and 2, instead of the name and description of the plaintiff or defendant. But in all other cases, it shall be necessary to specify the names of all the parties.

27. The plaint shall be subscribed by the plaintiff and his pleader (if any,) and shall be verified at the foot by the plaintiff in the manner following, or to the like effect :—

Plaint to be subscribed and verified.

I (A. B.) the plaintiff, named in the above plaint, do declare that what is stated therein is true to the best of my information and belief.

28. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification. In suits by a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

If plaintiff by reason of absence be unable to subscribe and verify the plaint.

In suits by a Corporation or Company, a Director or Secretary shall verify the plaint.

29. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specifed, whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified as herein before required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Court may reject plaint if it do not contain the required particulars, &c.

30. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaints to be returned, if the claim is beyond the jurisdiction of the Court.

31. If it appear to the Court that the claim is improperly valued, or being properly valued, that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if improperly or insufficiently valued.

32. If upon the face of the plaint or after questioning the plaintiff, it appear to the Court, that the subject-matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint. Provided that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

Plaint to be rejected if it appear to the Court that plaintiff has no cause of action, or that right of action is barred by lapse of time.

Amendment of plaint.

33. If it appear to the Court that the cause of action did not arise, or that the defendant is not dwelling or personally working for gain within the limits of the jurisdiction of the Court, or, if the claim relate to land or other immovable property, that such land or other property is not situate within such limits, the Court shall return the plaint to the plaintiff, in order to its being presented in the proper Court.

Plaint to be returned if it appear to the Court that it has not jurisdiction.

34. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immovable property within those territories, independent of the property in suit, shall not be entertained unless the plaintiff, at the time of presenting the plaint, or within such time as the Court shall order, furnish security for the payment of all costs that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Security for costs to be furnished by plaintiff at the time of presenting the plaint, if he resides out of the British territories in India.

Plaint to be rejected, if security be not furnished.

35. If in any stage of a suit it shall appear to the Court that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order him, within a time to be fixed by such order, to furnish security for the payment of all costs incurred, and to be incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

Security for costs may be required in any stage of suit, if it appear that plaintiff resides out of India.

36. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31, shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Appeal from order rejecting plaint.

37. If the suit be for land or other immovable property, situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

Proceeding in a suit for immovable property in different jurisdictions.

38. If the Court consider the plaint admissible, the particulars mentioned in Section 26 of this Chapter shall be entered in a book to be kept for the purpose, and called the "Register of Civil Suits," and the entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule (A.) hereunto annexed.

When the plaint is admissible, particulars to be entered in a Register.

Form of the Register.

39. When the plaintiff sues upon any written document or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and shall, at the same time, deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop book or other book, the plaintiff shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may, if he think proper, deliver the

Written document to be produced in Court, when plaint is presented.

And copy filed with plaint.

Original to be marked and returned.

original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any written document so produced to be impounded and kept in the custody of some Officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

If plaintiff wish, original may be filed instead of copy.

Court may order document to be impounded.

Document not produced when plaint filed, to be inadmissible in evidence.

40. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document in possession of defendant.

OF SUMMONING THE DEFENDANT.

41. When the plaint has been registered, a summons under the signature of the Judge and the seal of the Court shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only or for the final disposal of the suit, and the summons shall contain a direction accordingly.

On plaint being Registered, summons to issue to defendant.

Summons to be either to settle the issues, or for the final disposal of the case.

42. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Personal appearance of defendant or plaintiff.

If resident within 50 miles.

Or within the local jurisdiction of the Court.

43. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Summons shall order defendant to produce documents.

44. The summons shall be in the form contained in the Schedule (B.) hereunto annexed, or to the like effect.

Form of summons.

45. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day.

The day for appearance of defendant how to be fixed.

46. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendance of any Director, Secretary, or other principal Officer of the Corporation or Company, who may be able to answer all material questions relating to the suit.

Court may order personal appearance of a Director or Secretary in suits against a Corporation or Company.

SERVICE OF SUMMONS ON THE DEFENDANT.

47. The summons shall be delivered to the Nazir or other proper Officer of the Court, to be served by himself or one of his subordinates, and such Officer shall be responsible for its due service.

Summons shall be served by Officer of Court.

48. Service of the summons shall be made by delivering or tendering a copy thereof, under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

How service shall be made.

When there are several defendants.

49. Whenever it may be practicable, the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service to be on defendant in person, when practicable.

Service on agent sufficient.

50. Besides the recognized agents described in Section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonses and other processes.

Who may be an agent to receive service.

51. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof, if the appointment be a general one, shall be filed in the Court.

Appointment of such agent to be in writing and to be filed in Court.

52. The Government pleader in each Court shall be accounted the agent of the Government, for the purpose of receiving services of summonses, and other judicial processes against the Government, issuing out of the Court, in which he may be the pleader of Government.

Agent of Government.

53. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

If defendant cannot be found, and has no agent, service may be made on a male member of his family.

54. In all cases where the summons is served on the defendant personally or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

In all cases the person served is to be required to endorse the summons.

But service is sufficient without.

55. When the defendant cannot be found, and there is no agent empowered to accept the service, nor any other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling; and if he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it. Provided that, if the serving Officer is informed that the defendant is to be found, or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.

If defendant do not dwell in the place mentioned, the summons shall be returned with an endorsement of non-service.

Proviso

56. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons, or on a copy thereof under the seal of the Court, the time when, and the manner in which, it was served.

If served, time and manner of service to be endorsed on summons.

57. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court, shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When summons is returned unserved, Court to order substituted service, if satisfied that the defendant is avoiding service.

58. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require.

When service is substituted, the time for appearance to be fixed.

59. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted shall, upon receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be re-transmitted to the Court from whence it originally issued.

How the summons is to be served when the defendant is resident within the jurisdiction of an other Court and has no agent to accept service.

60. If the defendant be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post: in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held, and the place where the defendant resides; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

How the summons is to be served when the defendant resides out of the British territories in India, and has no agent to accept service.

Time for appearance.

In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.

61. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

In suit for immoveable property, service may in certain cases be made on agent in charge of such property.

62. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head Officer of the Office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon. If from any cause the

How service may be made on Government servants.

Service on Officers and Soldiers.

summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such other means of serving the summons as it may deem proper.

Service on a Corporation or Company.

63. When the suit is against a Corporation or a Company authorized to sue, and be sued, in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company.

In what case a letter may be substituted for a summons.

64. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

Service how to be made in such case.

65. When a letter or other communication is substituted for a summons under the authority of the last preceding Section it may be transmitted through the Post Office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of judicial process, in which case delivery to such agent shall be deemed sufficient service.

Proof of due service and delivery of summons, letter, &c., transmitted through the Post.

66. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII. of Act XVII. of 1854, (*for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office*), shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

OF SUITS AGAINST GOVERNMENT AND PUBLIC OFFICERS.

In suits against Government, summons to be served on Government Pleader.

67. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government, and may extend the time

Appearance and answer.

at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

In suits against Government Officers for alleged official acts, summons to be served on them.

68. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time to enable Officer to make a reference to Government.

69. If the Officer on receiving the summons shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference, and to receive orders thereon through the proper channels, and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

If Government undertake defence, Government Pleader to appear and move that a note of his appearance be entered in the Register.

70. If the Government shall undertake the defence of the suit, the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

If no such motion be made, case to proceed as in a suit between private parties.

But defendant not liable to arrest before judgment.

71. If such motion shall not be made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempted from personal appearance.

72. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance, but he shall be liable to be examined in any way in which an absent witness may be examined.

How Persons not before the Court may be made Parties to a Suit.

Court may adjourn hearing, and direct that parties appearing to be interested in a suit shall be made parties to the suit.

73. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in, the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.

OF ARREST BEFORE JUDGMENT.

In suits for moveable property, when defendant is about to leave the jurisdiction, &c., plaintiff may apply that security be taken.

74. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed of, or removed from, the jurisdiction of the Court, his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

Court may issue warrant to bring up defendant to show cause why he should not give bail.

75. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of, or removed from, the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issue a warrant to the proper Officer, enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

If defendant fail to show cause, Court may order him to give bail.

76. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending; and until execution or satisfaction of any decree that may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court, under the provisions of this Section, shall be open to appeal by the defendant.

Appeal.

Deposit in lieu of bail.

77. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Defendant to be committed to custody if he cannot give security.

78. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or if judgment be given against the defendant until the execution of the decree, if the Court shall so order.

Compensation to defendant arrested on insufficient grounds.

79. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient ground or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the

suit, the Court may (on the application of the defendant) award against this plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest.

Proviso as to amount.

80. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided.

When the defendant is about to leave India, the application to be made to the Court.

Of Attachment before Judgment.

81. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, moveable, or immoveable, belonging to the defendant, shall be attached until the further order of the Court.

In what cases plaintiff may apply before judgment for security from defendant to fulfil decree, and in default for an attachment of defendant's property.

82. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Application how to be made.

83. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

Form of warrant to be issued.

84. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached, the Court shall order the attachment to be withdrawn.

If cause be not shown or security be not furnished, property may be attached.

Withdrawal of attachment.

85. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money. Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

How the attachment is to be made.

Appeal.

86. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Claims to property attached before judgment, how to be investigated.

87. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required, together with security for the costs of the attachment.

Attachment may be removed when security is furnished.

88. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Compensation for attachment applied for on insufficient grounds, &c.

Proviso.

89. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Attachment not to affect the rights of persons not parties to the suit, or bar the execution of decrees.

90. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reason-

Court may stay the sale of property already under attachment, when execution of a decree fraudulently obtained is applied for.

able ground for supposing that the decree, in satisfaction of which the sale of the property is applied for, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Special case in which party may be put in immediate possession of land the subject of suit.

91. Whenever lands paying revenue to Government or a tenure liable to summary sale under the provisions of Regulation VIII. 1819 of the Bengal Code, *(to declare the validity of certain tenures and to define the relative rights of Zemindars and Putnee Talookdars, &c.)* form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue or the rent due to the proprietor of the estate, as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

Of Injunctions.

Cases in which an injunction to stay waste, &c. may be granted.

92. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet. And in all cases in which it

Or in which a receiver or manager may be appointed

may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a receiver or manager of such property, and, if need be, to remove the person in whose possession or custody, the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as the Court may seem proper. If

When the Collector may be appointed receiver or manager.

the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver and manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such receiver.

In suits to restrain breach of contract, &c.

93. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an injunction to restrain the defendant from the repetition, or the continuance of the breach of contract, or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience such injunction may be enforced by imprisonment in the same manner as a decree for specific performance. Provided always that any order for an injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Injunction to restrain repetition or continuance of breach.

Proviso.

Appeal.

94. Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Before granting injunction, Court may direct reasonable notice to be given to the opposite party.

95. The Court may in every case before granting an injunction direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Compensation to defendant for needless issue of injunction.

96. If it shall appear to the Court that the injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant,) award against the plaintiff in its decree such sum, not exceeding one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the injunction.

Proviso.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

97. If the plaintiff at any time before final judgment satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit.

98. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector the full amount of stamp duty paid on the plaint if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues, and before any witness has been examined. Provided however that no such certificate shall be granted if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

Adjustment or compromise.

Court may grant certificate for refund of stamp duty on plaint, if suit be adjusted.

Proviso.

OF THE DEATH, MARRIAGE, AND BANKRUPTCY OR INSOLVENCY OF PARTIES.

99. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive.

Suit not to abate by death in certain cases.

100. If there be two or more plaintiffs or defendants, and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff, or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs or defendants, if the cause of action survives.

101. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Resgister of the suit in the place of such deceased

Proceeding in case of death of one of several plaintiffs, where the cause of action accrues to the surviver, and the representative of the deceased.

plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and the legal representative of the deceased plaintiff shall be interested in, and shall be bound by the judgment given in the suit in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

102. In case of the death of a sole plaintiff, or sole surviving plaintiff, the Court may, on the application of the legal representative of such plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall thereupon proceed; if no such application shall be made to the Court within what it may consider a reasonable time by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable cost which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

103. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants, or of a sole or sole surviving defendant.

104. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant, and had been a party to the former proceedings in the suit.

105. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment, for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Marriage of a female plaintiff or defendant not to abate the suit.

106. The bankruptcy or insolvency of the plaintiff in any suit which the assignee might maintain for the benefit of the creditors shall not be a valid objection to the continuance of such suit, unless the assignee shall decline to continue the suit, and to give security for the costs thereof within such reasonable time as the Court may order; if the assignee neglect or refuse to continue the suit, and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy or insolvency of the plaintiff as a reason for abating the suit.

Bankruptcy or insolvency when not to abate the suit.

OF NOTICES TO PRODUCE, AND HOW THEY ARE TO BE SERVED.

107. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing has not previously been required, under the provisions of Sections 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same; and one of such notices shall be filed in Court, and the other shall be delivered by the Court to the Nazir or other proper Officer, to be served upon such party.

Two notices in writing to be delivered to the proper Officer of the Court.

108. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

Service of notice and other Judicial process how to be made on a party who has not appointed a pleader to act for him.

OF THE APPEARANCE OF THE PARTIES, AND CONSEQUENCES OF NON-APPEARANCE.

109. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person, or by a pleader, and the suit shall then be heard unless the hearing be adjourned to a future day which shall be fixed by the Court.

Parties must appear in person or by pleader.

110. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear either in person or by a pleader when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit unless precluded by the rules for the limitation of actions; or if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

If neither party appear, suit to be dismissed with liberty to the plaintiff to bring a fresh suit.

Or if sufficient excuse for non-appearance, a fresh summons may be issued.

111. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex-parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If plaintiff only appear, Court may proceed *ex-parte*, if due service of summons be proved.

If defendant appear on day of adjourned hearing, and assign good cause for his previous non-appearance, he may be heard.

112. If the plaintiff shall appear in person, or by a pleader, and the defendant shall not appear in person, or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear, and the service of summons be not proved, Court may order issue of second summons.

113. If the plaintiff shall appear in person, or by a pleader, and the defendant shall not appear in person, or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant, but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant.

If plaintiff only appear, and service of summons be proved, but the service was not in due time, Court may adjourn hearing and direct notice to be given to defendant.

114. If the defendant shall appear in person, or by a pleader, and the plaintiff shall not appear in person, or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

If defendant only appear, Court to pass judgment by default against plaintiff, unless defendant admit the claim.

No fresh suit after such judgment.

115. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them; and in like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them: provided that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act were a pleader of the Court.

When there are several plaintiffs or defendants, each may authorize the other to appear for him.

116. If there are two or more plaintiffs, and one or more of them shall appear in person, or by a pleader, or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person, or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person, or by a pleader, or by a co-defendant duly authorized, and the other or others of them shall not appear in person, or by a pleader, or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in the circumstances of the case.

Consequence of non-appearance of one or more of several plaintiff.

Consequence of non-appearance of one or more of several defendants.

117. If any plaintiff or defendant who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Consequence of non-appearance, without sufficient cause shown, of any party to a suit summoned or ordered to appear in person.

118. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such plaintiff or defendant, and verified in the manner hereinbefore provided for the verification of plaints.

Court to receive declaration in support of cause shown.

119. No appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all cases in which judgment may be passed *ex-parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed to

No appeal from judgments passed *ex-parte* or by default.

When and how judgment *ex-parte* against a defendant may be set aside.

the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit. In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the suit. But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party. In all cases in which the Court shall pass an order under this Section for setting aside judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.

When and how judgment by default against a plaintiff may be set aside.

No judgment to be set aside, without notice to opposite party.

Order for setting aside judgment shall be final.

In appealable cases, an appeal from order of rejection.

Proviso.

Of Written Statements.

120. The parties or their pleaders may tender at the first hearing of the suit written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Written statements may be tendered by the parties at the first hearing of the suit.

Written statement to be on stamp paper.

121. If in a suit for debt the defendant desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same unless he abandon the excess.

Particulars of set-off to be given in a written statement.

Abandonment of excess of set-off over claim.

122. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before final judgment, to call for a written statement, or an additional written statement from any of the parties. When

No written statement to be received after first hearing unless called for by the Court.

Court may at any time call for a written statement.

such statements are called for by the Court, they shall be received on plain paper.

How written statements are to be framed.

123. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts, which the party by whom or on whose behalf the written statement is made, believes to be material to the case, and which he believes he will be able to prove if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints and no written statement shall be received unless it be so subscribed and verified.

Written statements to be subscribed and verified.

Court may reject a written statement which is argumentative, prolix, or irrelevant.

124. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have called for by the Court, is argumentative or unnecessarily prolix, or that it contains, matter irrelevant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon, and it shall not be competent to a party whose written statement has been rejected for any of these causes to present another written statement, unless it shall be expressly called for or allowed by the Court.

Of the Examination of the Parties.

Oral examination of party, &c.

125. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person may be examinined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath of affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Oath.

Substance of the examination to be written.

Consequence of refusal of a party to answer.

126. If any party who appears in person or is present in Court shall without lawful excuse refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstance of the case.

Consequence of refusal or inability of pleader to answer.

127. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is

likely to be able to answer, if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall attend in person on such day; and if the party so directed to attend shall without lawful excuse fail to appear in person on the day so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

OF THE PRODUCTION OF DOCUMENTS.

Documentary evidence to be produced at first hearing.

128. The parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings, or other things which may have been specified in any notice, which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Exhibits to be received and inspected by the Court.

Rejection of exhibits.

129. All exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Documents insufficiently stamped may be received on payment of deficient duty and penalty.

Proviso.

130. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under any Regulation or Act for the time being in force and it shall appear to the Court that the deed, instrument, or writing, although written on stamp paper, does not bear a sufficient stamp, the Court shall nevertheless receive the same in evidence, saving all just exceptions on other grounds, if the party producing it or requiring its production shall pay into Court the deficiency of the stamp duty and penalty equal to ten times the amount of the deficiency. Provided that, if it shall appear to the Court that there are reasonable grounds for believing that the deed, instrument, or writing was not properly stamped with the intention of evading the stamp laws, the Court may reject the same.

Account of monies so received to be kept.

Monthly return to be made to Collector.

131. An entry of the fact of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of such deed, instrument, or writing, under the signature of the Judge of the Court. The Court shall at the end of every month make a return to the Collector of Revenue of the District of the monies (if any) which it has so received by way of duty or penalty, distinguishing between such monies, and stating the number and title of the suit, and the name of the party from whom such monies were received, and the date (if any) and description of the document, for the

purpose of identifying the same; and the Court shall pay over the said monies to the Collector of Revenue, or to such person as he may appoint to receive the same and the Collector of Revenue, or other proper authority shall, upon production of the deed, instrument, or writing with the endorsement hereinbefore mentioned, cause such additional stamp as may be necessary to be affixed to such deed, instrument, or writing in respect of the sums so paid as aforesaid.

Admitted exhibits to be marked and filed.

132. When an exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record, provided that, if the exhibit be an entry in any shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy, shall be endorsed as aforesaid, and shall be filed as part of the record, and the book shall be returned to the party producing it.

Proviso.

No stamp duty in respect of the production or filing of exhibits.

133. No stamp duty shall be leviable in respect of the production or filing of any exhibit, any thing contained in any Regulation or Act notwithstanding.

Rejected exhibits to be marked and returned.

134. When an exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132, with the addition of the word "rejected" and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who produced it, unless the Court shall think proper, for special reason, (as on suspicion of forgery,) to detain it.

Unless detained by the Court.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

135. When the time for preferring an appeal from the decision past in the suit has elapsed, or if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person, whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

Exhibit may be returned before the time limited for special reasons.

136. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be shall think proper, for special reasons, to order its return, but in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Certified copy to be kept.

Receipt to be given for returned exhibit.

137. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt book kept for the purpose.

138. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State the production of which would be contrary to good policy) and respect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Court may send for papers from its own records or from other public Offices or Courts.

Except State Papers.

Of the Settlement of Issues.

139. At the first hearing of the suit the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements if any, tendered by the parties or their pleaders.

Framing of issues.

140. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be, by summons or other suitable process.

Court may examine witnesses or documents before framing the issues.

141. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues. Additional issues.

Of Issues by agreement of Parties.

142. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Court, if satisfied that the agreement was executed *bonâ fide*, may decree accordingly.

143. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that the parties have a *bonâ fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so agreed on, or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

WHEN THE SUIT MAY BE DISPOSED OF AT THE FIRST HEARING.

If the parties are not at issue on any question of law or fact.

144. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are at issue on questions of law or fact.

145. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the case may require.

Court if satisfied may determine the issues and give judgment.

Proviso where summons is for final disposal.

Provided that if the summons shall have been issued for the final disposal of the suit and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

OF ADJOURNMENTS.

Court may grant time, or adjourn to a future day.

146. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit. Provided that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

Proviso.

How Court is to proceed if the parties fail to appear on the day fixed.

147. If, on any day to which the hearing of the suit may be adjourned, the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114, as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

Court to proceed if either party fail to produce proofs or witnesses.

148. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

Of Summoning Witnesses.

Application for summons.

149. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

No stamp duty on application for summons.

150. No stamp duty shall be leviable in respect of any application for the summons of a witness or other person to attend either to give evidence or to produce a document, anything contained in any Regulation or Act notwithstanding.

Expenses of witnesses to be paid before issue of summons.

151. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witnesses, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose

Scale of expenses.

Tender of expenses to witness.

If sum be not sufficient.

Expenses if witness is detained.

instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Time, place, and purpose of attendance to be specified in summons.

152. Every summons for the attendance of a witness or other person shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document, which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Summons to produce a document.

153. Any person whether a party to a suit or not may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

SERVICE OF SUMMONS ON A WITNESS.

How and when the summons shall be served.

154. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

Service to be on the witness, or a male member of his family.

155. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult male member of his family residing with him.

When the summons cannot be served, it is to be returned to the Court.

156. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

Time and manner of service to be endorsed on the summons.

157. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons the time when, and the manner in which it was served.

How a summons on a witness who resides in another jurisdiction is to be served.

158. If the person required to attend be resident within the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides by which it can be most conveniently served; and the Court to which the summons is sent shall upon receipt thereof,

deliver the same to the Nazir or other proper Officer of such Court to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

When a witness absconds, his property may be attached.

159. If the summons for the attendance of any person either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court on being certified thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

How the Court is to proceed with the witness on his appearance.

160. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

Of the examination of Parties as Witnesses.

A party to a suit appearing in person may be examined either in his own behalf or on behalf of any other party.

161. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

Special application to be made for the examination of a party as a witness.

162. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued.

The Court may first issue a notice to show cause.

163. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

Court shall receive a written declaration in support of the cause shown.

164. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

If no sufficient cause be shown, summons to issue.

165. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

Court may of its own accord at any time summon a witness.

166. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may of its own accord in any stage of the suit cause such party to be summoned to attend as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine such party as a witness in open Court, or may cause such party to be examined in such other manner as the Court may direct.

Attendance of Witnesses, and Consequence of Non-attendance.

Persons summoned to give evidence must attend.

167. If any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance by a witness.

168. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155, shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequences of refusal to give evidence.

169. If any witness, attending or being present in Court shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by

the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for the punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to give evidence.

170. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence though not summoned.

171. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

WHEN AND HOW WITNESSES ARE TO BE EXAMINED.

Witnesses to be examined at the hearing of the suit in open Court.

172. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by, or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge.

In what form evidence shall be taken in appealable cases.

In what case deposition to be interpreted.

If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given. Where all the parties

When evidence may be taken in English.

to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any party or his pleader shall require it. If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanor of the witness while under examination. In cases in which the evidence is not taken down in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record. In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand; and shall form part of the record. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

Objection made to questions.

Memorandum of substance of the evidence to be made by Judge as each witness is examined.

In what form evidence shall be taken in cases not appealable.

If Judge be unable to make a memorandum of the evidence, reason of inability to be recorded.

173. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed; and the deposition so taken down may be read in evidence at any hearing of the suit.

A witness may for sufficient cause be examined immediately.

174. All witnesses shall be examined upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Witness to be examined upon oath or affirmation, or according to the law for the time being in force.

OF COMMISSIONS TO EXAMINE ABSENT WITNESSES AND MAKE LOCAL ENQUIRIES.

Cases in which Court may issue a Commission to examine witnesses.

175. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness, on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just.

When the witness resides within the Court's jurisdiction.

If the witness be resident within the jurisdiction of the Court, issuing the Commission, the Commission may be issued to any Officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness resides beyond the Court's jurisdiction, and not within the Supreme Court's jurisdiction, but within the jurisdiction of the Sudder Court.

If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same; but, under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness is within the local jurisdiction of the Supreme Court.

176. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes, held under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay)*, but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness is not within the jurisdiction of the Sudder Court, or the Supreme Court, but within the British territories or the territories of any Native Prince or State in alliance with the British Government.

177. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion, or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a District, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

178. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

When the witness is beyond the said territories and not within the territories of any Native Prince or State in alliance with the British Government.

179. After the Commission has been duly executed, it shall be returned together with the deposition of the witness who may have been examined there-under, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission, in which case it shall be returned in terms of such order, and the Commission and the return thereto and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by reason of rank or sex from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same.

Commission to be returned with the depositions of the witnesses.

When depositions may be read in evidence

180. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or, if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of enquiry; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like

Commission for local investigation.

disadvantages, penalties, and punishments, by the order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions taken by him, shall return the depositions, together with his report in writing, subscribed with his name, to the Court.

The report and depositions to be taken as evidence in the suit, but the Commissioner may be examined in person.

The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

181. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such Officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them; in which case the Court shall make such further enquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

A Commissioner may be appointed to investigate and adjust accounts.

182. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued.

In cases of local investigation or investigation into accounts, expenses of Commission to be paid into Court, before issue thereof.

Of Judgment and Decree.

183. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court either immediately or on some future day, of which due notice shall be given to the parties or their pleaders.

When judgment is to be pronounced.

184. The judgment shall be written in the vernacular language of the Judge. Provided that if the vernacular language of the Judge be not English and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Judgment to be written in the vernacular language of the Judge.

Proviso.

185. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into the language in ordinary use in the Court, and the translation shall also be signed by the Judge.

Judgment what to contain

Judgment to be translated.

186. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Court to state its decision on each issue.

Proviso.

187. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

Judgment to direct by whom costs are to be paid.

188. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners either in taking evidence or in local investigations or in investigations into accounts.

What is included under the denomination of costs.

189. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

Decree.

190. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for the recovery of a portion of immoveable property.

191. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for the delivery of moveable property.

Decree for damages for breach of contract.

192. When the suit is for damages for breach of contract, if it appear, that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

In suits for money decree may order certain interests to be paid on the principal sum adjudged.

193. When the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest to be paid on the principal sum adjudged from the date of suit to the date of payment at such rate as the Court may think proper.

Payment by instalments.

194. In all decrees for the payment of money, the Court may for and sufficient reason order that the amount shall be paid by instalments with or without interest.

If set-off be allowed.

195. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Effect of decree.

When the suit is for land, the Court may provide in the decree for payment of mesne profits with interest.

196. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property from the date of the suit until the date of delivery of possession to the decree-holder with interest thereupon at such rate as the Court may think proper.

Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.

197. When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

Certified copies of the decree and judgment to be furnished.

198. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps where stamps are required by any law for the time being in force. The application may be made either orally or by writing on unstamped paper.

CHAPTER IV.

Execution of Decrees.

Decree for immoveable property.

199. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for moveable property, performance of contract or alternative.

200. If the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by the seizure, if practicable, of the specific moveable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Decree for money.

201. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sudder Court for the orders of Government, and execution shall not issue on the decree unless the same shall remain unsatisfied for the space of three months from the date of such report.

Decrees for execution of conveyances, or endorsement of negotiable instruments.

202. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the Judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Decree against representatives of deceased persons.

203. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be

executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against sureties.

204. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

What property liable to attachment and sale in execution of a decree.

205. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money, banknotes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, moveable or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

Payment of monies under decrees, &c.

206. All monies payable under a decree shall be paid into the Court, whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct.

Adjustment of decree to be made through the Court.

No adjustment of a decree in part or in whole shall be recognized by the Court, unless such adjustment be made through the Court or be certified to the Court by the person in whose favor the decree has been made or to whom it has been transferred.

Application for Execution.

Application for execution how to be made.

207. When any party in whose favor a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree either in person or through his pleader in the suit or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application by whom to be made, if decree be transferred from original decree-holder to another person.

208. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree, may be executed in the same manner as if the application were made by the original decree-holder.

Cross-decrees.

209. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum,

and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

If the person against whom a decree is made shall die before execution, application may be made against his legal representative or estate.

210. If any person against whom a decree has been made shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

Decree how to be executed against legal representative.

211. If the decree be ordered to be executed against the legal representative, it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form of application for execution of a decree.

212. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, or other relief granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Further particulars when the application is for an attachment of immoveable property.

213. When the application is for an attachment of any land or other immoveable property belonging to the defendant, it shall be accompanied with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the revenue of such estate, and the names and (where registered) the shares of the registered proprietors,

The application for an attachment of moveable property may be general or may be accompanied with an inventory of the property to be attached.

214. Where the application is for an attachment of the defendants' moveable property or any part thereof, it may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description thereof; or the applicant may apply for a general attachement of the defendant's moveable property wheresoever the same can be found, to the amount of the judgment and costs.

Procedure on receiving the application.

215. The Court, on receiving any application for execution of a decree, containing the particulars above mentioned, or such of them as may be applicable to the case, shall cause the same to be compared with the original decree contained in the record of the suit, and if they shall be found to correspond therewith, shall enter a note of the application, and the date on which it was made in the Register of the suit. If the particulars shall not be found to correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF A WARRANT.

In certain special cases, notice to show cause why the decree should not be executed shall be issued.

216. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution; and provided further that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Proviso.

Procedure after issue of notice.

217. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for a general attachment of moveable property.

218. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Before granting order, Court may make certain enquiries as to the property to be attached.

219. Before granting the order for a general attachment or at the instance of the plaintiff at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the inquiry, summon any other person whom it may think necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

Rules applicable to the summoning and examination of parties and witnesses after judgment.

220. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded, shall apply to the party or witnesses so summoned.

ISSUE OF THE WARRANT.

Warrant when to issue.

221. When all necessary preliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Latest day of execution to be written in warrant and time and manner of execution to be endorsed.

222. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper Officer of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper Officer shall endorse upon the warrant the day and the manner in which it was executed, or if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

OF THE EXECUTION OF DECREES FOR IMMOVEABLE PROPERTY.

How immoveable property is to be delivered when in the occupancy of a defendant or of some person under him.

223. If the decree be for a house, land, or other immoveable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable

property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and if need be, by removing any person who may refuse to vacate the same.

How it is to be delivered when in the occupancy of ryot

224. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property, by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

Division of estate or separation of share now to be made.

225. If the decree be for the division of an estate or for the separate possession of a share of an undivided estate paying revenue to Government, the division of the estate or the separation of the share shall be made by the Collector under the orders of the Court according to the rules in force for the partition of an estate paying revenue to Government.

Obstruction to execution of decree for immoveable property.

226. If in the execution of a decree for land or other immoveable property, the officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint and shall summon the party against whom the complaint is made to answer the same.

Obstruction by defendant.

227. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation on the ground that the land or other immoveable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

How defendant may be dealt with, if he persists in obstructing the complainant.

228. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

Obstruction by a *bonâ fide* claimant other than the defendant.

229. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person, other than the defendant claiming *bonâ fide* to be in possession of the

property on his own account or on account of some other person than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases if person dispossessed of immoveable property disputes the right of decree-holder to be put into possession of such property.

230. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bonâ fide* in his possession on his own account or on account of some other person than the defendant, and that it was not included in the decree, or, if included in the decree, that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Appeal from decision under the last two Sections.

231. The decision passed by the Court under either of the last two Sections shall be of the same force as a decree in an ordinary suit, and shall be subjected to appeal under the rules applicable to appeals from decrees; and no fresh suit shall be entertained in any Court between the same party or parties claiming under them in respect of the same cause of action.

OF THE EXECUTION OF DECREES FOR MONEY BY ATTACHMENT OF PROPERTY.

Attachment of property in execution of decree for money, to be as follows.

232. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment of moveable property in possession of defendant by seizure.

233. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other Officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

234. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment by prohibitory order of moveable property to which defendant is entitled subject to a lien.

235. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way and all persons from receiving the same by purchase, gift, or otherwise.

Attachment of immoveable property by prohibitory order.

236. Where the property shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the futhrer order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment until such further order.

Attachment of debts not being negotiable instruments, and of shares in public Companies, &c, by prohibitory order.

237. Where the property shall consist of money, or of any security, in deposit in any Court of Justice or in the hands of any Officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or Officer requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise shall be determined by the Court in which such money or security is in deposit.

Attachment of money or securities in deposit in a Court of Justice or with a Government Officer, by notice.

Proviso.

238. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other Officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

Attachment of negotiable instruments by seizure.

239. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of

When the attachment is by prohibitory order, how the order is to be made known.

the property. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the Office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper Officer of the Company or Corporation.

Any private alienation of property after attachment to be null and void.

240. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends or shares to the defendant during the continuance of the attachment, shall be null and void.

Payment by a debtor who has been prohibited from making payment to his creditor

241. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the debt.

The Court may direct money or bank-notes to be paid to the plaintiff, or other attached property to be sold, and proceeds to be paid to him.

242. In all Cases of attachment under the preceding Sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank-notes or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient part thereof, shall be paid to such party.

Where the property attached consists of debts or immoveable property, a manager may be appointed.

243. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable property, it shall be competent to the Court to appoint a manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the land or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents,

profits or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment debtor can satisfy the Court that there is reasonable ground to believe the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper to enable the judgment debtor to raise the amount. In any case in which a manager shall be appointed under this Section, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

Court may postpone sale of land if satisfied that amount of judgment may be raised by mortgage, &c.

Manager to render accounts.

244. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a public sale of the land or share.

When Court may authorize Collectors to stay public sale of land.

On security being given.

245. If the amount decreed with costs, and all charges and expenses which may be incurred by the attachment be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Order for withdrawal of attachment after satisfaction of the decree.

OF CLAIMS TO ATTACHED PROPERTY.

246. In the event of any claim being preferred to, or objection offered against the sale of lands, or any other immoveable or moveable property which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next succeeding Section, proceed to investigate the same with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable

How claims and objections to sale of attached property are to be investigated.

property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was in possession of the party against whom execution is sought as his own property, and not on account of any other person, or was in the possession of some other person in trust for him or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

Claims and objections should be preferred at the earliest opportunity.

247. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies, shall have been advertized for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

Of Sales in execution of Decrees.

Sales to be by public auction.

248. Sales in execution of decrees shall be conducted by an Officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government, and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Exception as to negotiable securities and shares in public companies.

Sale by Collector of lands paying revenue to Government.

Notification of sales by public auction.

249. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be

sold, the revenue assessed upon the estate, when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale extends only to the right title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land of any right or interest in land, the written notification shall also be affixed in the Office of the Collector of the District, in which such land is situate and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

Time of sale.

250. The usual process for attachment and sale when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper.

The process for attachment and sale, may in certain cases be issued simultaneously.

251. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale or as soon after as the Officer holding the sale shall direct, and in default of such payment, the property shall forthwith be again put up and sold. On payment of the purchase money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Mode of payment on sale of moveable property.

252. No irregularity in the sale of moveable property under an execution, shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity, may recover damages by a suit in Court.

Irregularity not to vitiate sale of moveable property, but any person injured, may recover damages by suit.

253. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five percentum on the amount of his bid, and in default of such deposit, the property shall forthwith be again put up and sold.

Deposit by purchaser in case of sale of moveable property.

254. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then

When full amount of purchase money to be made good.

on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Procedure on default.

Defaulting purchaser answerable for loss by re-sale.

255. Every re-sale of immoveable property in default of payment of the purchase money, shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Notification on re-sale of immoveable property.

256. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity unless the applicant shall prove to the satisfaction of the Court, that he has sustained substantial injury by reason of such irregularity.

Confirmation of sale.

257. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale, and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the Court shall pass an order setting aside sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal, and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final, and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

258. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase money, with or without interest in such manner as it may appear proper to the Court to direct in each instance.

When the order to set aside a sale shall be to appeal.

259. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to be granted to the purchaser of land.

260. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Certificate to state the name of actual purchaser.

261. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property in the possession of defendant.

262. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of moveable property to which defendant is entitled subject to lien.

263. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery of immoveable property in the occupancy of defendants, &c.

264. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of immoveable property in the occupancy of ryots, &c.

265. Where the property sold shall consist of debts not being negotiable instruments or of shares in any Railway, Banking, or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Company or Corporation from per-

Delivery of debts not being negotiable instruments and of shares in public Companies.

mitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities of which actual seizure has been made.

266. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

267. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may indorse the security or the certificate of the share or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect—"A. B. by C. D. Judge of the Court of *(or as the case may be)*; in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made or document executed or receipts signed as aforesaid shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession of property.

268. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in sections 226, 227, and 228, relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

269. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant claiming a right to the posssession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Attaching creditor to be first paid out of property attached.

270. Whenever property is sold in execution of a decree, the person on whose application such property was attached, shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

271. If, after the claim of the person on whose application the property was attached, has been satisfied in full from the proceeds of the sale, any surplus remains, such surplus shall be distributed rateably amongst any other persons who prior to the order for such distribution may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that when any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

Proviso where property is sold subject to a mortgage.

272. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached, was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached, so far as the same may suffice for the purpose, if such other decree be a decree of that Court, or if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain similar order from the Court by which the decree was made.

Court may on application order another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

OF ARREST IN EXECUTION OF DECREES FOR MONEY.

273. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints.

On what grounds, application for discharge may be made.

Form of application.

Verification.

274. Upon such application being made, the Court shall examine the applicant in the presence of the plaintiff or his pleader as to his then circumstances, and as to his future means of payment, and shall call upon the plaintiff to show cause why he does not proceed against any property of which the defendant is possessed, and why the defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may

Procedure on application.

leave the defendant in the custody of the Officer of the Court whom the service of the warrant was entrusted, on the defendant making the necessary deposit for paying the fees of such Officer; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or sureties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Defendant liable to be again arrested, if proved guilty of fraudulent concealment of property, &c.

275. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned if it should be shown that, in the applicaton made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharged exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Of the execution of Decrees by Imprisonment.

Subsistence money of a defendant in goal how fixed and furnished.

276. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Court may vary the allowance in case of illness or for other special cause.

277. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered, on due cause being shown.

Release of defendant.

278. A defendant shall be released at any time, on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above directed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

Imprisonment not to be longer than two years.

6 months if decree for money not exceeding 500 Rs.

3 months if not exceeding 50 Rs.

279. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules; but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Subsistence money to be added to amount of decree.

280. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property, of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Application may be made for discharge, on a surrender of the whole of the debtor's property.

281. On such application being made, the Court shall cause the plaintiff to be forwarded with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold, or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall within the time specified or at any subsequent period prove to the satisfaction of the Court that the defendant has been guilty of any of the acts above-mentioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

Procedure on such application.

Defendant to be discharged on plaintiff failing to prove fraud or concealment by defendant.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

and he may be further dealt with criminally.

282. A defendant once discharged shall not again be imprisoned on account of the same decree, except under the operation of the last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum less than one hundred Rupees, and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for a sum less than one hundred Rupees, and on account of a transaction bearing date as above, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

Though the defendant be discharged, his property is liable for the decree.

How questions regarding amount of mesne profits and interest, and sums paid in satisfaction of decree, are to be determined.

283. All questions regarding the amount of any mesne profits, which by the terms of the decree may have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, shall be determined by order of the Court executing the decree and not by separate suit; and the order passed by the Court shall be open to appeal.

OF EXECUTION OF A DECREE OUT OF THE JURISDICTION OF THE COURT BY WHICH IT WAS PASSED.

How a decree of one Court may be executed within the jurisdiction of another Court.

284. A decree of any Civil Court within any part of the British territories in India, or established by the authority of the Governor General of India in Council, in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed within the jurisdiction of any other such Court in the manner following.

Application for such execution.

285. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed, to the Court by which the applicant may wish the decree to be executed.

Copy of decree and order for execution to be transmitted.

286. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared: and the same, after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant if that Court be within the same District, otherwise to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any Judge unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

Decree or order transmitted, to be executed as that of the Court.

287. The Copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

288. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases; provided that such Court shall have no power to inquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Execution how to be enforced by Court applied to.

289. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by such Court in the same manner as if the decree had been made by such Court.

Wrongful acts or irregularities in executing decree to be punished by Court applied to.

290. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Court applied to may in certain cases stay execution or order restitution of property or discharge of defendant.

291. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from or impose such conditions upon the defendant as it may deem reasonable.

Before staying execution, Court may require security from, or impose conditions upon defendant.

292. Any order of the Court in which the decree was passed or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

293. No discharge of a defendant under the provisions of Section 290 shall prevent him from being re-taken in execution of the decree.

Liability of defendant discharged, to be re-taken.

294. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

What appeal from orders for execution under this Act.

Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.

295. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of a Garrison Cantonment, Military Station, or Military Bazar, the Officer entrusted with the execution of such warrant or other process, shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison Cantonment, Station, or Military Bazar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested if within the limits of his command and delivered, according to the exigency of the warrant, to the Civil Officer charged with the execution thereof.

Rules contained in this Chapter to be applicable to all Civil process.

296. The rules contained in this Chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money which may be ordered by a Civil Court in any Civil proceeding,

CHAPTER V.

OF PAUPER SUITS.

Suit may be brought *in forma pauperis*.

297. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

What suits excepted.

298. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

Application to be by petition on stamp paper.

299. The application to the Court for permission to sue *in formâ pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Petition what to contain.

300. The petition shall contain the particulars required by Section 26 of this Act, in regard to plaints, and shall have annexed to it a Schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

How to be presented.

301. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female, who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Examination of petitioner, if a female, how to be taken.

302. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

Petition to be rejected if not in form.

303. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner as the case may be, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also, if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

If in form, Court how to proceed.

If presented by an agent, Court may order petitioner to be examined in like manner as an absent witness.

304. If it appear to the Court upon such examination that the defendant, or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

Court may reject the application.

305. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

Notice to opposite party.

306. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

After a summary enquiry, the Court to pass a final order.

307. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Court may direct a local enquiry.

308. If the application of the petitioner be granted and numbered, it shall be registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

Course of proceeding to be observed, if application be admitted.

309. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

On the decision of the suit, costs how to be calculated.

310. The refusal to allow the petitioner to sue as a pauper, shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.

311. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

No appeals from orders under this Chapter.

CHAPTER VI.

REFERENCE TO ARBITRATION.

312. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Reference to arbitration on application of the parties.

313. The application shall be made by the parties in person or by their pleaders specially authorized in that behalf by an instrument in writing, which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Application how to be made.

314. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Nomination and appointment of arbitrators.

315. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

Order of reference.

316. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

When the reference is to two or more, the order shall provide for difference of opinion.

317. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the Cour tis authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court..

Powers of arbitrators.

318. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided that an award shall not be liable to set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

Extension of time for making award.

319. If, in any case of reference to arbitration by an order of Court, the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing, or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Section, the arbitrator or arbitrators, or umpire so appointed, shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

In case of death, incapacity, or refusal to act of arbitrators or umpire, Court may appoint others in stead.

320. When an award in a suit shall be made either by the arbitrator or arbitrators, or by the umpire, it shall be submitted to the Court under the signature of the person or per-

Award how to be submitted to Court.

sons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Arbitrator may state special case.

321. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference, by an order of Court if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Court may, on application, modify or correct an award in certain cases.

322. The Court may, on the application of either party modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it think just, respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

And make order respecting the costs of arbitration.

In what cases Court may remit the award or any of the matters referred to arbitration for re-consideration.

323. In any of the following cases, the Court shall have power to remit the award or any of the matters referred to arbitration to the reconsideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say).—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration.

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

Award not to be set aside except on ground of corruption.

Application to set aside the award.

324. No award shall be liable to be set aside, except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award, shall be made within ten days, after the same has been submitted to the Court.

Judgment to be according to the award.

325. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment which shall be so given, decree shall follow and shall be carried into execution the same manner as other decrees of the Court. In every case in which judgment shall be given according to the award, the judgment shall be final.

Agreement of parties to refer to arbitration, may be filed in the Court.

326. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement or to be appointed by any

Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon.

Provisions of this Chapter applicable.

The several provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court and to the award of arbitration and to the enforcement of such award.

Filing in Court an award when the matter was referred to arbitration without intervention of Court.

327. When any matter has been referred to arbitration without the intervention of any Court of Justice and an award has been made, any person interested in the award may within six months from the date of the award make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

Enforcement of such award.

CHAPTER VII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

How Questions may be raised for the decision of a Civl Court by any Persons interested.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

328. Parties interested or claiming to be interested in the decision of any question of fact or law, may enter into an agreement, which shall be subject to the same stamp duty as prescribed for plaints in suits, that upon the finding of a Court in the affirmative or negative of such ques-

tion of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or imoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property moveable or immoveable, or for the doing or performing, or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

329. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs, or plaintiff and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Parties to be subject to the Court's jurisdiction.

330. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

331. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try, or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement, and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER VIII.

OF APPEALS.

Appeal to lie from all decrees except when expressly prohibited.

Appeal to Sudder Court to be heard by three or more Judges.

332. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the appeal lie to the Sudder Court it shall be heard and determined by a Court consisting of three or more Judges of that Court.

HOW APPEALS ARE TO BE PREFERRED.

Appeal to be preferred by a memorandum to be presented to the Appellate Court within specified time.

333. Appeals shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exlcusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

What the memorandum is to contain.

334. The memorandum of appeal shall set forth concisely and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

Form of memorandum.

335. The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against—

Memorandum of Appeal.

(Name, &c. as in Register.) Plaintiff,
(Name, &c. as in Register.) Defendant.

[Name of Appellant.] Plaintiff [or Defendant] above-named appeals to the Sudder Court at [or Zillah Court at as the case may be], against the decree of in the above suit, dated the day of ; for the following reasons, namely, [*here state the reasons.*]

If memorandum be not in form or duly presented.

336. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected.

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree if it proceed on a ground common to all.

337. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

OF STAYING AND EXECUTING DECREES UNDER APPEAL.

Execution of decree not to be stayed by appeal; but if sufficient cause be shown, execution may be stayed.

338. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may, for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause be shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

Court, before making order to stay execution, shall require security for due performance of decree or order of Appellate Court.

Court making an order for execution of a decree against which an appeal has been preferred, may require security for restitution of property, &c.

339. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree, or of the value thereof, and for the due performance of the decree or order of the Appellate Court.

No such security to be required from Government or any public Officer.

340. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public Officer.

OF PROCEDURE IN APPEALS FROM DECREES.

How the appeal is to be entered.

Form of the Register.

341. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper Officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule (C) hereunto annexed.

Appellate Court may, at its discretion, require security for costs from appellant.

Proviso.

342. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British Territories in India, and is not possessed of any land or other immoveable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal, or within such time as the Court shall order, the Court to reject the appeal.

343. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch, all material papers in the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court, specifying any exhibits of which he requires copies to be made and deposited in the Lower Court, and copies of such exhibits shall be prepared at the expense of the party giving the notice and shall be deposited in the Lower Court.

Appellate Court to send intimation to Lower Court of appeal being registered.

Lower Court to transmit papers to Appellate Court.

Either party may give notice of exhibits, of which he requires copies to be made and deposited in the Lower Court.

344. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Day for hearing the Appeal, how to be fixed.

345. Notice of the day which has been fixed for hearing the appeal, shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court, and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice. The notice to the respondent shall contain an intimation that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

Publication and service of notice of the day fixed for hearing the appeal.

Form of notice.

346. If on the day fixed for hearing the appeal or any other day subsequent thereto, to which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Consequence of non-appearance.

347. If an appeal be dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing, when the appeal was called on for hearing, the Court may re-admit the appeal.

Re-admission of appeals dismissed for default of prosecution.

Respondent may object to decision of Lower Court, in the same manner as if he had preferred a separate appeal.

348. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court which he might have taken if he had preferred a separate appeal from such decision.

The Appellate Court how to give judgment.

349 The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

No decision to be reversed for irregularity.

350. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reversed or modified, nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity either in the decision or in any interlocutory order passed in the suit not affecting the merits of the case or the jurisdiction of the Court.

When a case may be remanded by Appellate Court.

351. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the Lower Court, with directions to restore the suit to its original number in the Register and proceed to investigate the merits of the case, and pass a decree therein.

Power to remand limited as above.

352. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

When the evidence is sufficient, the Appellate Court must determine the case, though the Lower Court has decided on other grounds.

353. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

Trial of issues by Lower Court on reference from Appellate Court.

354. If the Lower Court shall have omitted to raise or try any issue or to determine any question of fact which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court, and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues, and shall return to the Appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding: and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

355. It shall not be competent to the parties in an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses; but if it appear that the Lower Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced, or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not, provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

When the Appellate Court may call for fresh evidence.

356. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court, or to empower any person to take such evidence, and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken.

How additional evidence is to be taken.

357. In all cases where additional evidence is permitted to be taken, the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

Points to be defined.

358. The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the suit, examining the parties or their pleaders, and awarding costs, or otherwise, as are hereinbefore contained in regard to Courts of original jurisdiction.

Powers of Appellate Court.

359. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the Court shall state his opinion in writing, which shall form part of the record.

Judgment of the Appellate Court. In what language it is to be written.

Dissent to be recorded.

360. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the

What the decree is to contain.

parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who pssed it, and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

A certified copy of the decree to be transmitted to the Lower Court.

361. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the original Register of the suit.

How to be executed.

362. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

Appeals from Orders.

No appeal from order passed before decree, but error or defect therein may be set forth as an objection if the decree be appealed against.

363. No appeal shall lie from any order passed in the course of a suit, and relating thereto prior to decree; but if the decree be appealed against, any error, defect, or irregularity in any such order affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

N. appeal from order Passed after decree, and relating to the execution thereof except as provided.

364. No appeal shall lie from any order passed after decree and relating to the execution thereof except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

365. All orders as to fines, or the levying thereof, or as to imprisonment under this Act (except when the imprisonment is in execution of a decree) shall be subject to appeal.

Procedure in appeals from orders.

366. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon, shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

OF APPEALS IN FORMA PAUPERIS.

Who may appeal as pauper.

367. Any party to a suit who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from such decision subject to all the rules contained in the last preceding Chapter, and in Chapter V. in so far as they are applicable.

Application to whom and when to be presented.

368. The application to be allowed to appeal *in formâ pauperis*, shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

Form of application.

369. The application shall contain the particulars required to be set forth in the memorandum of appeal, and shall be drawn up in the like manner. It shall have annexed to it a Schedule of any moveable or immoveable property belonging to the applicant with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made.

Procedure.

370. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law, or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds abovementioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary unless the Appellate Court shall see special cause to direct such enquiry.

Effect of order by Appellate Court.

371. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees.

CHAPTER X.

OF SPECIAL APPEALS.

Special appeals allowed on what grounds.

372. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being

contrary to some law, or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground.

Application to be presented to the Sudder Court.

373. The application for the admission of a special appeal shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court, and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX. in respect to appeals from decrees *in formâ pauperis* in so far as the same may be applicable.

Form of application.

374. The application shall set forth concisely the grounds of objection to the decision appealed against without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie.

Application how to be dealt with.

375. If the application be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D. hereunto annexed, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals so far as the same may be applicable.

CHAPTER XI.

REVIEW OF JUDGMENT.

Review of judgment.

376. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal, from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him may apply for a review of judgment by the Court which passed the decree.

On discovery of new evidence, &c.

377. The application shall be made within ninety days from the date of the decree, unless the party preferring the same shall be able to show just and reasonable cause, to the satisfaction of the Court, for not having preferred such application within the limited period. If the application be made within the period above-mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

Within what time and on what paper the application should be made.

378. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final. Provided that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

The order of the Court for granting or refusing the review is final.

Proviso.

379. If the Court to which the application for a review of its judgment has been presented by a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

380. When an application for a review of judgment is granted, a note thereof shall be made in the Register of suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

Procedure on application for a review being granted.

CHAPTER XII.

MISCELLANEOUS.

381. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of the Subordinate Civil Courts, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from

Sudder Court empowered to make rules of practice, &c., for the subordinate, Civil Courts.

Provided such rules are not inconsistent with this or any other law.

time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force.

Act not to extend, except in certain cases, to Supreme and Presidency Small Cause Courts.

382. Except so far as relates to the examination of witnesses under Commission and to the execution of decrees out of the jurisdiction of the Courts by which they were passed, this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

Saving of jurisdiction and procedure of Village Moonsiffs and Village or District Punchayets in Madras—

of Military Courts of Request—

of single Officers appointed to try small suits in Madras and Bombay.

and of Military Punchayets in Madras

383. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request: or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively; or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Saving of certain special or local Laws.

384. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authorities invested with powers under the provisions of Regulation XIII. 1830 of the Bombay Code *(for vesting certain Jagheerdars, Surinjameedars, and Enamdars with the power of deciding suits within the boundaries of their respective estates)* and Act XV. of 1840 *(for extending Regulations XV. 1827 and XIII. 1830 of the Bombay Code to the Agents of Foreign Sovereigns)*, or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code *(for receiving, trying, and deciding claims to the right of inheritance or successions in certain Tributary estates in Zillah Cuttack)*, or cases of the nature defined in Regulation XXIX. 1827 *(for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh)*, Regulation VII. 1830 *(for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country)*, Regulations I. and XVI. 1831 of the Bombay Code *for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned)*, Act XIX. of 1835 *(relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan)*, and Act XIII. of 1842 *(to enable the holders of revenue which has been alienated to them by the State to collect that revenue within the Presidency of Bombay)*, except that such suits and cases and the regular and special appeals to the Civil Courts

allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts above quoted.

Act not to take effect in places not subject to the general Regulations until extended thereto.

385. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council, or by the Local Government to which such territories is subordinate, and notified in the *Gazette*.

Interpretation.

386. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number, shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District."

"District Court."

The local jurisdiction of a Principal Civil Court of original jurisdiction shall be deemed a District for the purposes of this Act; and the words "District Court" shall mean such Court.

"Sudder Court."

In any part of the British territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said territories.

Commencement of operation of Act.

Pending suits.

387. This Act shall come into operation in the Presidency of Bengal from the 1st day of July 1859, and in the Presidencies of Madras and Bombay from the 1st day of January 1860, or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the *Gazette* of the Presidency three months at least before the date so fixed. But if in any suit pending at the time when this Act shall come into operation, it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any right in reference to the procedure of the suit, whether of appeal or otherwise, which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

Where Act comes into operation, procedure of Civil Courts to be regulated by it only.

388. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the Civil Courts in such part of the said territories shall be regulated by this Act, and except as otherwise provided by this Act, by no other Law or Regulation.

SCHEDULE A. referred to in the foregoing Scheme of Procedure.

COURT of the of holden at

REGISTER OF CLAIM SUITS in the year 18

Date of presentation of plaint.	No. of suit.	PLAINTIFF.			DEFENDANT.			CLAIM.			APPEARANCE.			JUDGMENT.			APPEAL.		EXECUTION.					RETURN OF EXECUTION.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars	Amount of value	When the cause of Action accrued.	Day for Parties to appear.	Plaintiff.	Defendant.	Date.	For Whom.	For what, or amount.	Date of Appeal.	Judgment in Appeal.	Date of Application.	Date of Order.	Against whom.	For What, and Amount of money.	Amount of Court.	Amount paid into Court.	Arrested.	Minute of other Return than payment or Arrest, and Date of every Return.

SCHEDULE B.

No. of Suit.

In the Court of at

Plaintiff.

Defendant.

(Name, Description, and address.)

Whereas [*here enter the name, description, and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person, state*—"*in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions*"] to answer the abovename plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here;* "*and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day*"]; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mentioned any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C. to the foregoing scheme of Procedure.

COURT AT

REGISTER OF APPEALS from DECREES in the year 18

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE D. to the foregoing scheme of Procedure.

SUDDER COURT at

REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	APPELL NT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.

W. MORGAN,
Clerk of the Council.

An Act to provide for the adjudication of Claims to Property seized as forfeited.

Preamble.

Whereas it is expedient to make provision for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is also expedient to remove doubts concerning the powers of Officers or other persons to whom Commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adjudications of forfeiture made by such Officers or other persons; It is enacted as follows:

Court of Special Commission to be established.

I. It shall be lawful for the Executive Governments of the Lower and North Western Provinces of the Presidency of Bengal to establish, within any part of the Territories subject to their respective Governments, Courts of Special Commission for the trial and determination of claims to property seized as forfeited, and to assign, from time to time, such local jurisdiction to the Courts so established as may appear proper. Provided that no additional expense shall be incurred by the establishment of any such Court, without the previous sanction of the Governor General of India in Council.

Proviso.

Court to consist of three Commissioners.

II. Every Court established under this Act shall consist of not less than three Commissioners, who shall sit together for the trial and determination of claims; but any one or more of them shall have power to make all such orders as may be necessary for preparing the cases that may be instituted for trial and decision.

Notification of establishment of Court in any District.

III. Whenever any Court shall be established under the provisions of this Act, with jurisdiction in any district or districts, notice thereof shall be given by a written proclamation, of which copies shall be affixed in the several Courts and in the Offices of the several Collectors and Magistrates of such district or districts; and the powers heretofore vested in the Courts of such district or districts, in respect of all cases cognizable by the Courts established under this Act, shall be suspended until such Courts shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of such Court of Special Commission has ceased, of which notice shall be given by proclamation in the manner aforesaid.

Transfer of pending suits.

IV. Any case pending before any Court sitting as a Court of original jurisdiction at the time of the passing of this Act, in respect of a matter made cognizable by Courts established under its provisions, shall be transferred to the Court of Special Commission within the limits of whose jurisdiction the property in dispute is situate, and such Court shall summon the defendant and proceed to dispose of the case in the same manner as if it had been instituted before it.

V. The Courts established under this Act shall be held at such place within the limits of their respective jurisdiction as shall from time to time be appointed by the local Government.

Court where to be held.

VI. The plaint in suits instituted under this Act shall be written on the stamp paper prescribed for petitions of plaint in regular suits, and shall contain the following particulars, namely,

Form of Plaint.

The name, description, and place of abode of the plaintiff, the relief sought for, the subject of the claim, and the cause of action; and if the suit be brought against a defendant other than the Government or some Officer on the part of Government, the name, description, and place of abode of such defendant.

VII. The plaint shall be verified in the manner prescribed for the verification of plaints in Section XXVII. Act VIII. of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter); and if the plaint contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Verification of plaint.

Punishment for false averment in plaint.

VIII. The plaint may be presented by the plaintiff in person or by his duly constituted representative either in the principal Civil Court of original jurisdiction in the district in which the property or any part of the property in dispute is situate, or in the Court of Special Commission having jurisdiction over the claim under this Act. If the plaint be not presented in the Court of Special Commission, it shall be forwarded to such Court without delay.

Presentation of plaint.

IX. The Court shall fix a day for the appearance of the parties and for the hearing of the suit, of which due notice shall be given to the parties or their representatives, and, on the day so fixed, the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the plaintiff on the day fixed for the hearing of the suit or at any subsequent stage.

Procedure before hearing of suit.

X. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the plaintiff, or his representative when his personal attendance is not required, and the witnesses of the parties, and upon such examination and after inspecting the documents of the parties and making any further enquiry that may appear necessary, shall proceed to pass such order

Procedure on hearing.

in the case in respect both to the claim and to the costs of suit as it may consider just and proper.

Examination, &c., of witnesses.

XI. It shall not be necessary to take down the depositions of the witnesses in writing at length; but the Court, as the examination of each witness proceeds, shall reduce into writing the substance of what such witness deposes, and the deposition so taken shall form part of the record. In all other respects the provisions of the Regulations and Acts for procuring the attendance of witnesses, and for the examination, remuneration, and punishment of witnesses in suits before the Civil Courts, shall be of equal force and effect in cases tried under this Act.

Decisions.

XII. The rules contained in Act XII. of 1843 (concerning the time at which, and the language in which, the decisions of the Judges in the Courts of the East India Company are to be written) shall be applicable to decisions passed under this Act.

No appeal.

XIII. No appeal shall lie from any decision passed under this Act, nor shall any such decision be open to revision.

Execution of decrees.

XIV. The decrees of the Courts of Special Commission established under this Act, shall be enforced by the Civil Courts of the district in which the property in dispute is situate, under the rules applicable to the execution of decrees passed by those Courts.

Records of cases where to be deposited.

XV. The records of cases disposed of by Courts established under this Act, shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

Validity of convictions of offences involving forfeiture of property not to be questioned by any Court.

XVI. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power in any suit or proceeding relating to such property to question the validity of the conviction.

Validity of conviction not to be questioned, because the record does not show in what capacity the convicting Officer acted.

XVII. Whenever any person shall have been convicted as above, by an Officer having power to try and convict, the validity of any such conviction shall not be questioned, upon the ground that the record of the conviction does not show in what capacity such Officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

Property attached without adjudication of forfeiture.

XVIII. Whenever any property shall have been attached or seized, without either conviction or an adjudication of forfeiture, by any Officer of Government as property forfeited, or liable to be forfeited to Government, for an offence for which, upon conviction, the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question

by any Court, or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial, and upon trial, before a competent Court, shall have been or shall be acquitted of the offence, and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Nothing in this Section shall extend to persons entitled to pardon under Her Majesty's proclamation, published in the *Calcutta Gazette* Extraordinary, dated the 1st of November 1858, or to any person who, having surrendered himself within the period of one year after the seizure of his property, shall be discharged by order of Government without a prosecution.

Validity of such attachment not to be questioned, unless offender surrender within one year and be acquitted, &c.

Proviso.

XIX. No Judge or other person acting as Commissioner under the provisions of Acts XIV. and XVI. of 1857, has power to release property attached or seized as forfeited, or as liable to be forfeited to Government except under the provisions of Section VIII. Act XXV. of 1857, when the offender or alleged offender shall have surrendered himself for trial, and shall be tried and acquitted by such Judge or Commissioner, and shall prove that he did not escape or keep out of the way for the purpose of evading justice; and any order passed by any such Judge or Commissioner for the release of any property attached or seized as forfeited or liable to be forfeited to Government, except upon the acquittal before him of the person accused, and upon proof that he did not escape or keep out of the way for the purpose of evading justice, is hereby declared null and void.

Release of property attached as forfeited.

XX. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited, in respect of any property attached or seized as forfeited or liable to to be forfeited to Government; provided that no suit brought by any party in respect of such property shall be entertained unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relates.

Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property.

Proviso.

W. MORGAN,

Clerk of the Council.

III. Ryots who, in the Provinces of Bengal, Behar, Orissa, and Benares, hold lands at fixed rates of rent, which have not been charged from the time of the permanent settlement, are entitled to receive pottahs at those rates.

Ryots holding land at fixed rate to receive pottahs.

IV. Whenever, in any suit under this Act, it shall be proved, that the rent at which land is held by a ryot in the said Provinces, has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

If rent of land be not changed for 20 years.

V. Ryots having rights of occupancy, but not holding at fixed rates, as described in the two preceding Sections, are entitled to receive pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shewn in a suit by either party, under the provisions of this Act.

Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.

VI. Every ryot who has cultivated or held land for a period of twelve years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khomar, neejjote, or seer land, belonging to the proprietor of the estate or tenure, and let by him on lease for a term, or year by year, nor (as respects the actual cultivator) to lands sublet for a term, or year by year, by a ryot having a right of occupancy. The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this Section.

Right of occupancy of ryot cultivating or holding land for 12 years.

VII. Nothing contained in the last preceding Section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot when it contains any express stipulation contrary thereto.

Saving of terms of written contracts.

VIII. Ryots not having rights of occupancy are entitled to pottahs only at such rates as may be agreed on between them, and the persons to whom the rent is payable.

Pottahs to which ryots not having rights of occupancy are entitled.

IX. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah such as the ryot is entitled to receive shall be held to entitle the person to whom the rent is payable, to receive a kubooliyet from such ryot.

Person granting pottah entitled to a counterpart engagement.

X. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provisions of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator, from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not

Exactions in excess of rent or receipt withheld.

Form of receipt.

exceeding double the amount so exacted or paid. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Landholder not to compel the attendance of tenant for adjustment of rent, or for any other purpose.

XI. The power heretofore vested in zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Payment of rent to be enforced only under this Act.

Damages for extorting payment of rent by duress.

XII. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred Rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Enhancement of rent of ryot holding without or after expiry, &c. of written engagement.

XIII. No under-tenant or ryot, who holds or cultivates land without a written engagement, not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or ryot, on or before the month of Cheit, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collector on the application (which may be on plain paper) of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affixed at his usual place of residence, or if he have no such place of residence in the district in which the land is situate, the mode of service of such notice shall be by affixing it at the Mal cutcherry of such land or other conspicuous place thereon, or at the village Chowree or Chowpal, or at some other conspicuous place in the village in which the land is situate.

Mode of contesting enhancement of rent.

XIV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

XV. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who, in the Provinces of Bengal, Behar, Orissa, and Benares, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent, which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, any thing in Section LI. Regulation VIII. 1793, or in any other law, to the contrary notwithstanding.

Dependent talookdar, &c., holding land at fixed rent without change since permanent settlement, not liable to enhancement of rent.

XVI. Whenever, in any suit under this Act, it shall be proved that the rent at which a talook or other tenure is held in the said Provinces, has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed, that such talook or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Rent of talookdar, &c., not charged for twenty years, to be *primâ facie* evidence of occupancy at that rent since permanent settlement.

XVII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him, except on some one of the following grounds, namely :—

Grounds on which ryot having right of occupancy is liable to enhanced rent.

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages in the places adjacent.

That the rate paid by him is below that prevailing in adjacent places.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the value of the land, &c. has increased independently of the ryot.

That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

That the quantity of land held by the ryot is greater than he has paid rent for.

XVIII. Every ryot having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

When ryot may claim abatement of rent.

XIX. Any ryot who desires to relinquish the land held or cultivated by him, shall be at liberty to do so, provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorized agent, on or before the month of Cheit of the year preceding that in which the relin-

Relinquishment of land by ryot after notice given.

quishment is to have effect. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land. If the person entitled to the land or his agent refuse to receive any such notice and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector, who shall thereupon cause the notice to be served on such person or his agent, in the manner provided in Section XIII.

What to be deemed an arrear of rent under this Act.

XX. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of ryot to be ejected for arrear due.

XXI. When an arrear of rent remains due from any ryot at the end of the Bengal year or at the end of the month of Jeth of the Fusly or Willayutee year as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due. Provided that no ryot, having a right of occupancy or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

Liability of farmer to have his lease cancelled for arrear adjudged due.

XXII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected. Provided, that no such lease shall be cancelled, nor the lease-holder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

Cognizance of suits under this Act.

XXIII. 1. All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered;

2. All suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

3. All complaints of excessive demand of rent, and all claims to abatement of rent;

4. All suits for arrears of rent due on account of land either kherajee or lakheraj, or on account of any rights of pasturage, forest-rights, fisheries, or the like;

5. All suits to eject any ryot, or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment, or a lease may be liable to be cancelled;

6. All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same;

7. All suits arising out of the exercise of the power of distraint conferred on zemindars and others by Sections CXII. and CXIV. of this Act, or out of any acts done under color of the exercise of the said power as hereinafter particularly provided; shall be cognizable by the Collectors of land revenue, and shall be instituted and tried under the provisions of this Act, and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court or by any other Officer or in any other manner.

Suits by zemindars against their agents for money or accounts.

XXIV. Suits by zemindars and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Ejectment of cultivators, farmer, &c. by zemindars.

XXV. If any zemindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act. Provided, that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated ticca zur-i-peshgee or the like, in which an advance has been made by the lease-holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the Civil Court.

Proviso.

Measurement of lands.

XXVI. When rent is payable by an under-tenant or ryot at a certain rate or rates according to the quantity of land held or cultivated by him, or when any written engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or ryot has expired or become cancelled by the sale for arrears of revenue, or rent of the estate or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or ryot. And every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure unless restrained from doing so by

express engagement with the occupants of the lands. If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot, after the issue of an order enjoining his attendance neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

Registry of transfers of talooks, &c.

XXVII. All dependent talookdars and other persons possessing a permanent transferable interest in land intermediate between the zemindar and the cultivator are required to register, in the Sherishteh of the zemindar or superior tenant, to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions. If any zemindar or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferree or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zemindar or superior tenant to admit to registry and otherwise give effect to such transfer or succession. Provided that no zemindar or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the zemindar or superior tenant.

Proviso.

Applications to dispossess grantees of land exempt from revenue.

XXVIII. So much of Section X. Regulation XIX. 1793, Section X. Regulation XLI. 1795, Section VI. Regulation XXXI. 1803, Section XXI. Regulation VIII. 1805, and Section XXIV. Regulation XII. 1805, as authorizes and requires proprietors and farmers of estates and dependent talooks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said Sections, of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or talook in which it may be situate, is repealed; and any proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Collector, and such application shall be dealt with as a

suit under the provisions of this Act. Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued. If such period has already elapsed, or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

Suits by or against Surburakars or Tuhseeldars of estates held khas.

XXIX. All suits which under the provisions of this Act may be brought by or against zemindars or other persons in the receipt of the rent of land, may be brought by or against Surburakar or Tuhseeldars of estates held under khas management, whether such estates are the property of Government or of individuals. If the Collector or the Surburakar or Tuhseeldar of any such estate in the Provinces of Bengal, Behar, and Orissa proceed against any defaulting ryot or under-tenant of such estate under the powers vested in him by Section XXV. Regulation VII. 1799, and not according to the provisions of this Act, such ryot or under-tenant may contest the demand on account of which he is so proceeded against by suit in the Civil Court.

Time for commencement of suits generally.

XXX. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

Time for commencement of suits for grant of pottahs, &c.

XXXI. Suits for the delivery of pottahs or kubooliyets and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

Time for the commencement of suits for arrears of rent.

XXXII. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fusly or Willayutee year in which the arrear claimed shall have become due. For arrears of rent due at the passing of this Act, or suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Proviso.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under Section XIII., and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year or of the month of Jeth of the Fusly or Willayutee year, on account of which such enhanced rent is claimed.

Time for the commencement of suits against agents for money, papers, or accounts.

XXXIII. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent, or in the case of claims now existing within one year after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court whichever may first expire.

Proviso.

Provided, that if the person having the right to sue shall, by means of fraud, have been kept from the know-

ledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Mode of instituting suits. Form of plaint or statement of claim.

XXXIV. Suits under this Act shall be instituted by presenting to Collector a plaint or statement of claim which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim, and the date of the cause of action.

Statement by whom to be be presented.

XXXV. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff, who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Verification of statement.

XXXVI. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:

I A. B. do declare that the above statement is true to the best of my knowledge and belief.

Punishment for false verification.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Statement of claim to be written on stamped paper.

XXXVII. In suits for the recovery of arrears of rent or of money in the hands of an agent, the statement of claim shall be written on paper bearing a stamp of one-fourth the value prescribed for suits instituted in the Civil Court. In all other suits the statement shall be written on paper bearing a stamp of the value of eight annas. No stamp shall be required in respect of the production or filing of any document, or the summoning of any witness, or of any application for the execution of any order or judgment passed in a suit under this Act.

No stamp duty to be required for filing documents.

Documentary evidence to be produced by plaintiff.

XXXVIII. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

If plaintiff require production of document from defendant

XXXIX. If the plaintiff require the production of any document in the possession or power of the defendant, he may at the time of presenting his statement of claim, deliver to the Collector a description of the document in order that the defendant may be required to produce the same.

XL. If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate, and of the pergunnah or other local division in which the land is situate; and if the arrear is alleged to be due from any ryot, the quantity of land, and where fields have been numbered in a Government survey, the number of each field, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

Form of plaint in suits for arrears of rent.

XLI. If the suit be for the ejectment of ryot, farmer, or tenant, from any land, farm or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement shall describe (as circumstances may require) the extent, situation, and designation of the same; and if necessary for the identification of the land, shall set forth the boundaries of such land.

Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land, &c.

XLII. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified, as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Statement may be returned or allowed to be amended.

XLIII. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Issue of summons; personal atte dance of defendant may be required.

XLIV. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence. It shall also enjoin him to bring with him his witnesses, if they are willing to attend without issue of process; and shall be in the form A., contained in the Schedule to this Act, or to the like effect.

The day to be specified in the summons how to be fixed.

Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.

XLV. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

Summons how to be served.

XLVI. If the summons be served personally, the Nazir shall endorse on the summons the fact of such service. If personal service be not effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Endorsement by Nazir if summons has been personally served or not.

XLVII. If the usual place of abode of the defendant be in another District, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collecter of such District, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Execution of process in another District.

XLVIII. The amount of the cost of serving the summons, or if a warrant be issued as provided in the next succeeding Section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Collector. If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in Section CXLVI), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Cost of serving summons or warrant to be deposited in Court.

XLIX. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. When such application is presented, the Collector shall examine the plaintiff, or his agent, on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well founded; and that, if a summon be issued, the defendant will absond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant. The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the Schedule to this Act, or to the like effect, and the Officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence. But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependant talook or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Warrant of arrest in what cases to be issued.

L. If a defendant be arrested under the warrant of arrest, he shall be brought, with all convenient speed, before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice.

Procedure after arrest of defendant.

LI. When a defendant is brought before the Collector under warrant, the Collector shall, with all convenient speed, proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the Civil jail to be there detained until he shall furnish such security or deposit such sum as the Collector shall order. The security-bond shall be in the form (D) contained in the Schedule to this Act, or to the like effect.

Procedure when defendant is brought before the Collector under warrant.

Form of security-bond.

LII. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own Office and at the residence of the defendant, fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant. If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding Section.

Procedure if warrant of arrest cannot be served upon the defendant.

LIII. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree, award to the defendant such sum not exceeding one hundred Rupees as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Compensation for arrest applied for without reasonable cause.

LIV. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day, to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of action.

Consequence of neither party appearing on the day of trial.

LV. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs; provided that such judgment, if there be more than one defendant, shall be only against the defendant, who makes the admission.

If defendant only appear to dispute the demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission.

Proviso.

LVI. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex-parte* against the defendant.

If plaintiff only appear, Collector may proceed *ex-parte*.

LVII. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding Section, the Collector may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.

LVIII. No appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all such cases if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shall show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

Revival, reversal, and alteration of decrees *ex-parte* or by default.

LIX. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other. If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party him-

On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.

self would have been if he had attended personally. At the time of examination the defendant, if he think fit, may file a written statement of his defence.

Examination of parties, &c.

LX. The examination of the parties or their agent or such other person as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses. The substance of the examination shall be reduced to writing in the Vernacular language of the Collector and filed with the record.

Witnesses to be examined.

LXI. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Documentary evidence to be produced by defendant.

LXII. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination, Collector may make his decree if no further evidence is required.

LXIII. If after the examination required by Section LIX and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

Consequence of inability of agent to answer.

LXIV. If on such examination as aforesaid the agent of either party be unable to answer any material question relating to the case, which the Collector is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party, whose agent may have been unable to answer as aforesaid, shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case.

If necessary, Collector to record issue and to fix a day for hearing further evidence.

LXV. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties shall produce their witnesses on the day of trial, or Collector on application of either party shall issue summons for the attendance of a witness.

LXVI. The parties shall bring forward their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day, and the Collector shall issue a summons requiring such witness to attend.

LXVII. The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration, and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Rules regarding attendance, examination, &c. of witnesses.

LXVIII. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in Section LIV. If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Consequence of parties not appearing on the day fixed for the trial of any issue.

LXIX. When suits under this Act are instituted or defended by Naibs, Gomastahs, or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such Naibs, Gomastahs or other persons; and anything which by this Act is required or permitted to be done by a party in person may be done by any such person as aforesaid. Processes served on any such person shall be as effectual for all purposes in relation to the suit, as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Suits instituted or defended by Naibs, Gomastahs, &c.

LXX. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which according to the custom and manners of the country would render it improper for her to appear in public.

Personal attendance of plaintiff or defendant not required in certain cases.

LXXI. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; and no fee for any agent shall be charged as part of the costs of suit in any case under this Act.

Employment of authorized agents or mookhtars.

LXXII. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may grant time or adjourn hearing.

LXXIII. The Collector may at any stage of a case cause a local enquiry and report respecting the matter in dispute to be made by any Officer subordinate to him, or by any other Officer of Government with the consent of the authority to whom such Officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. The provisions of the law for the time being in force relative to local enquiries by Ameens or Commissioners under orders of the Civil Courts shall apply to any local enquiry made by any Officer under this Section, and, so far as they are applicable, to enquiries made by the Collector in person. In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Collector may cause local enquiry to be made.

LXXIV. The defendant in any action under this Act may pay into Court such sum of money. as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff. If the defendant deposit less than the sum claimed, and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

Defendant may pay money into Court in satisfaction of the demand.

If plaintiff elect to proceed and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.

LXXV. No interest shall be allowed to a plaintiff on any sum paid by the defendant into the Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

No interest on deposits.

LXXVI. If on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy, the parties do not agree as to the term for which the pottah is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper. Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest. For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

If on trial of suit for delivery of pottah parties do not agree as to the time for which the pottah is granted, Collector to fix the time.

Proviso.

LXXVII. When in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person, on ground that such third

If in actions for rent a third claiment appear, he is to be made a party to the suit.

person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit; such third person shall be made party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into and the suit shall be decided according to the result of such enquiry. Provided always that, the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Proviso.

LXXVIII. Any person desiring to eject a ryot or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment. In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount, together with interests and costs of suit be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Suits for ejectment or cancelment of lease.

LXXIX. The Collector shall pronounce judgment in open Court. The judgment shall be written in the Vernacular language of the Collector, and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced.

Judgment how to be pronounced.

LXXX. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuse or delay to grant the same, the Collector may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

If person required by the decree refuse to grant pottah, Collector may do so.

LXXXI. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kubooliyet executed by the said person.

Refusal of person to execute kubooliyet as required by the decree.

LXXXII. If the decree be for the ejectment of any ryot from land occupied by him, or for the re-instatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Mode of executing decree for ejectment or re-instatement of ryot.

Punishment for obstructing execution.

LXXXIII. If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator) or for the reinstatement of any farmer or other such person in the pos ession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

Mode of executing decree for cancelment of a lease or for ejectment or reinstatement of a farmer or tenant

LXXXIV. If the decree be for arrears of rent or for money, papers, or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security-bond given under Section LI., the Collector may order that he be detained in, or committed to the Civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

In what case a judgment debtor may be detained or imprisoned without issue of process of execution.

LXXXV. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety. If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond, in the same manner as if a decree for that sum had been passed against the surety.

Liability of Surety on failure to deliver judgment-debtor into custody.

LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property. Process of execution against the person or moveable property of a debtor shall be in the form (E) or (F) contained in the Schedule to this Act, or to the like effect.

Issue of process of execution.

LXXXVII. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs. In either case the property to be seized shall be pointed out to the Officer entrusted with the execution of the process by the creditor or his agent.

Application for execution against moveable property.

LXXXVIII. Every warrant of execution shall bear date on the day on which it is signed by the Collector, and shall continue in force for such period as the Collector may direct, not being more than sixty days, calculated from such date.

How long warrant shall continue in force.

LXXXIX. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor after the expiration of the period fixed for the continuance in force of a previous warrant.

Second and successive warrants.

XC. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment or from the date of the last previous application for execution.

After one year execution not to issue without notice.

XCI. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Execution not to issue against heir or representative of a deceased party without notice.

XCII. No process of execution of any description whatsoever shall be issued, on a Judgment under this Act, after the lapse of three years from the date of such Judgment, unless the Judgment be for a sum exceeding five hundred Rupees in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Court.

No process of execution to be issued three years after date of Judgment.

XCIII. If a warrant issue for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector. If such person shall not then deposit in Court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the Civil Jail there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree. Provided that, the time for which a debtor may be confined in execution of a decree under this Act, shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundred Rupees, or two years in any other case. If the decree against any person arrested under a warrant be for the delivery of papers or accounts, and the papers or accounts shall not be delivered by him, when he is brought before the Collector, such person may be committed to the Civil Jail there to remain for such time not exceeding six calendar months, as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

Warrant against the person.

Limit of imprisonment.

If arrest be for non-delivery of account.

No person to be imprisoned a second time under same Judgment.

XCIV. Any person once discharged from jail shall not be imprisoned a second time under the same judgment. If the amount due under the decree do not exceed one hundred Rupees, the Collector may declare such discharged person absolved from further liability under that decree. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

Diet-money to be deposited at the time of issue of warrant.

XCV. Any person applying for a warrant of arrest under Section XLIX., or suing out process of execution against the body of any person shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Payment of diet-money in advance during imprisonment.

XCVI. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

XCVII. All diet-money spent in providing subsistence for any prioner shall be added to the costs in the suit, and any diet-money, not so spent, shall be returned to the person who deposited the same.

List of property to be prepared and proclamation of sale to be published, &c.

XCVIII. In executing a writ of execution against the moveable property of a debtor liable under this Act, the Officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list at the intended place of sale and at the residence of the debtor. A copy of the said proclamation and list shall be transmitted to the Collector and shall be affixed in his Office.

Custody and sale of moveable property taken in execution.

XCIX. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken. Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the Officer executing the writ. The provisions of Sections CXXIX. to CXXXIII, so far as the same are applicable, shall be applied to sales under this Section.

Collector may stay sale of moveable property seized if a third party claim any interest therein.

C. If before the day fixed for the sale a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing, may stay the sale of such property.

Collector to adjudicate such claims.

CI. The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit. In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Claimant failing to establish his right, liable to pay compensation to judgment-creditor.

CII. If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

No appeal from order of Collector under the two last preceding Sections.

CIII. No appeal shall lie from any order passed by the Collector under the two last preceding Sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order;

Proviso.

provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damage against the judgment-creditor by whom the property was brought to sale.

Sale not vitiated by irregularity in publishing or conducting the same.

CIV. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court;

Proviso.

provided such action be brought within one year from the date of sale.

Sale of transferable tenures in execution of decrees for arrears of rent.

CV. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force. If after sale of an under-tenure any portion of the amount decreed remains due,

process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in Section CX. of this Act.

If third party claim to be the proprietor and lawful possessor of such under-tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim.

CVI. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector, and allege that such third party and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in Section C. for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim. Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the Sherishteh of the zemindar or superior tenant shall be recognized, unless it have been so registered, or unless sufficient cause for non-registeration be shown to the satisfaction of the Collector.

Proviso.

Mode of adjudicating such claims.

CVII. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favor of sharers in undivided estates or tenures.

CVIII. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate or talook or tenure, application for the sale of such under-tenure shall not be received, unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the District in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section CV., may be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following Sections.

In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's moveable property, execution may be had against his immoveable property

CIX. In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the District in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

CX. If the immovable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of movable property, and the provisions of Sections XCVIII. and XCIX. shall be applicable to the execution of such process. If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force, applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

Mode of executing process if immovable property be a house or other building.

If it be a saleable under-tenure.

If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

If it be an estate or a share of an estate.

CXI. If before the day fixed for the sale of any immovable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in Section C. for the examination of third parties, and if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in Section CVII.

Consequence of objection being offered before the sale of any immovable property.

CXII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent as defined in Section XX. of this Act is due from any cultivator of land, the zemindar, lakherajdar, farmer, dependent talookdar, under-farmer, or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules. Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to distraint. Provided also that no sharer, in a joint estate, dependent talook, or other tenure, in which a division of lands has not been made amongst the sharers, shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, talook, or tenure, on behalf of all the sharers in the same. Provided further that, in putteedaree estates situated in districts under the Government of the Lieutenant Governor of the North Western Provinces, distraint shall be made only through a lumberdar.

Produce of the land to be held hypothecated for the rent.

Arrears of rent may be recovered by distraint under the following rules.

Cultivators who have given security to be exempt from distraint.

CXIII. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

No distraint in certain cases.

CXIV. The power of distraint vested by Section CXII. in zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, Surbarakars, and Tehseeldars of estates, held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the naibs, gomashtahs, and other agents employed by such persons as aforesaid in the collection of rent if expressly authorized by power of attorney in that behalf. Provided that if any illegal act is committed by any such naib, gomashtah, or other agent, under color of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Power of distraint to be exercised by managers under the Court of Wards, &c.

Proviso.

CXV. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Standing crops and crops gathered, but not stored, liable to distraint.

CXVI. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself, so they cannot be so served, shall be affixed at his usual place of residence.

Defaulter to be served with a written demand, &c., before or at the time of distraint.

CXVII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent, affix it at his usual place of residence.

Distress to be proportionate to the arrear if not paid or tendered.

List of property to be distrained, to be served on owner.

CXVIII. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

Standing crops, &c., when attached, to be reaped and stored by the Cultivator, or, if he neglect to do so, by the distrainer.

CXIX. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public Officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an Officer to support the distrainer in making the distraint.

Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.

CXX. When any person, empowered to distrain property under Section CXII. or Section CXIV., shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Person empowered to distrain may give written authority to their servants to do so.

CXXI. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Distress to be withdrawn if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.

CXXII. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court Ameen, or other Officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public Officer as the local Government shall appoint for the purpose.

Application for sale.

CXXIII. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and the date of the distress, and the place in which the distrained property is deposited. Together with the application, the distrainer shall deliver to the Civil Court Ameen or

Form of application.

Cost of notice upon defaulter to be deposited by distrainer.

other Officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure by Civil Court Ameen, &c., on receipt of application.

CXXIV. Immediately on receipt of the application the Civil Court Ameen or other Officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the Schedule to this Act, or to the like effect) on the person whose property has been distrained requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice. He shall at the same time send to the Collector for the purpose of being put up in his Office, and if in the North Western Provinces in the cutcherry of the Tehseeldar, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.

CXXV. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to to the Civil Court Ameen or other Officer, or if so requested shall deliver to the owner of the distrained property, a certificate of the institution of such suit; and on such certificate being received by or presented to the Ameen or other Officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before issue of notice of sale.

CXXVI. A person whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale. When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding Section. If thereafter application for the sale of the property is made to the Civil Court Ameen or other Officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

Distress to be withdrawn on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.

CXXVII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with security, binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same; and upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector, the property shall be released from distraint.

CXXVIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court Ameen or other Officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

On expiration of period fixed in proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.

CXXIX. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazar, haut, or other place of public resort, if the Civil Court Ameen or other Officer should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots as the Officer holding the sale may think advisable, and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

Place and manner of sale.

CXXX. If on the property being put for up sale a fair price in the estimation of the Officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market day, if a market be held at the place of sale, the sale shall be postponed until such day and shall be then completed, whatever price may be offered for the property.

If fair price be not offered, sale may be postponed to another day, and shall be then completed at whatever price may be offered.

CXXXI. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the Officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold. When the purchase money has been paid in full, the Officer holding the sale give the purchaser a certificate describing the property purchased by him and the price paid.

Payment of purchase money.

CXXXII. From the proceeds of the sale of distrained property the Officer holding the sale shall make a deduction at the rate of one anna in the Rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section CXXIV., to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made with interest thereon up to the day of sale, and if there be any overplus it shall be delivered to the person whose property shall have been sold.

Proceeds of sale.

CXXXIII. Officers holding sales of property under this Act, and all persons employed by or subordinate to such Officers, are prohibited from purchasing either directly or indirectly any property sold by such Officers.

Officers holding sales prohibited from purchasing.

CXXXIV. Civil Court Ameens and other Officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under color of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court Ameen or other Officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under Section CXXIV or pass such other order as he may think proper.

All irregularities to be reported to the Collector.

Officer not to proceed to sale, if he find that defaulter has not received due notice.

CXXXV. When a Civil Court Ameen or other Officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding Section, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court Ameen or other Officer, the charge of one anna in the Rupee on account of expenses shall be leviable, and shall be calculated on estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary. In every other case it shall be paid by the distrainer, and may be recovered by attachment and sale of the property of the distrainer under the warrant of Collector, provided always that in no case shall a larger amount than ten Rupees be recoverable under this Section.

Recovery of expenses if Ameen proceeds to place of sale and no sale takes place.

XXXVI. All proceedings under this Act of the Civil Court Ameens and other Officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collector, with the sanction of the Boadrs of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court Ameens and other Officers as may be thought necessary.

Proceedings of Civil Court Ameens, &c. subject to revision and orders of Collectors.

CXXXVII. When a suit has been instituted to contest the demand of a distrainer, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court Ameen or other Officer authorizing the sale of the property, and on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court Ameen or other Officer, such Ameen or Officer shall publish a second proclamation in the manner prescribed in Section CXXIV., fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from

Second proclamation of sale.

the date of the proclamation; and unless the amount adjudged to be due with the costs of distress, be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

CXXXVIII. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act. If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favor of the distrainer, and amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been withdrawn, and if any balance remain due after such sale by execution of the decree against the person and the any other property of the defaulter, or if the property have been released on security by execution of the decree against the person and property of the defaulter and of surety. If on the other hand the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained property, may award such damages in favor of the plaintiff as the circumstances of the case shall seem to require.

Procedure after institution of suit to contest distrainer's demand.

CXXXIX If any person shall claim as his own, property which has been distrained for arrears of rent, alleged to be due from any other person, such person may institute a suit against the distrainer, and such other person, to try the right to the property, in the same manner, and under the same conditions as to the time of instituting the suit, and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand. When any such suit is instituted, the property may be released upon security being given for the value of the same. If the claim is dismissed the Collector shall make an order for the sale of the property, or the recovery of the value thereof, as the case may be, for the benefit of the distrainer. If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require. Provided always that no claim to any produce of land, liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Any person, whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer, &c.

Proviso.

CXL. If in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoy-

Procedure if distrainer's right to distrain be disputed.

ment of the rent by such other person before and up to the time of the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of such enquiry. Provided always that, the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Persons prevented from suing in time to save their property from sale, may sue for damages.

CXLI. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand or to try the right to the property as the case may be within the period allowed by Sections CXXIV. and CXXXIX., and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by any illegal act of distrainer.

CXLII. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

CXLIII. If any person not empowered to distrain property under Sections CXII. and CXIV. of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under color of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale. The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

CXLIV. Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of occurrence of the cause of action.

Resistance of distraint.

CXLV. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and if the offence be proved and the offender be the owner of the property, shall order him to be impri-

soned in the Civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred Rupees, or in default of payment thereof to imprisonment for a period not exceeding two months.

Service of process.

CXLVI. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the Nazir or by such other Officer as the Collector may direct at the cost of the party at whose instance it issued. The amount of such cost, and in the case of summons to a witness, any sum required for the travelling expenses of such witness, such be deposited in Court before the process is issued. Provided that if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Resistance of process.

CXLVII. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of Civil justice. When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and if, after due service of the summons, he fail to attend, may issue a warrant for his apprehension. Orders passed by Collectors under this Section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of Section CLI.

Collector competent to hold a Court in any part of his jurisdiction.

Proviso.

CXLVIII. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his District or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

Agents or mookhtars.

CXLIX. Any person may practise as an agent or mookhtar in a Court held by a Collector under this Act without any formal license from the Collector. But it shall be competent to the Collector to prohibit any person who has been convicted by a competent Court of a criminal offence, or who has been found guilty of fraudulent or dishonest conduct in the discharge of his duty as agent or mookhtar, to practise as an agent or mookhtar in his Court. When any agent or mooktar is charged by the Collector or any other person with

fraudulent or dishonest conduct in the discharge of his duty, the Collector shall proceed in the manner prescribed in Section IV., Act XVIII. of 1852, or any other law for the time being in force, for the trial of charges against pleaders.

Powers of Deputy Collectors.

CL. All the powers vested in the Collector by the preceding Sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector; and in all cases without such reference, by any Deputy Collector, placed in charge of any Sub-division of a District, and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction.

Collectors and Deputy Collectors to be subject to direction and control of the Commissioners and the Boards of Revenue.

CLI. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Boards of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate.

No appeal from orders of Collectors and Deputy Collectors in certain cases.

All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof or orders passed after decree, and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

CLII. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the the Collector within fifteen days from the date of the order. Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

No appeal from any decree of Collector for money below 100 Rupees unless the decision involve some question of right to enhance rents or some question relating to a title to land.

CLIII. In suits under Clauses 2, 4, and 7 of Section XXIII., and under Section XXIV., of this Act, tried and decided by a Collector, if the amount sued for, or the value of the property claimed does not exceed one hundred Rupees, the judgment of the Collector shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to en-

hance or otherwise vary the rent of a ryot or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in Section CLX. and CLXI., of this Act.

In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.

CLIV. In suits in which the judgment of the Collector is final, as provided in the last preceding Section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce at the time of trial.

Appeal from decision of Deputy Collector.

CLV. When any such suit as aforesaid, in which if tried and decided by a Collector, the judgment of the Collector, would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of appeal to be on stamp paper, &c.

CLVI. The petition of appeal shall be written on stamp paper of eight annas value, and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

CLVII. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons. If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant shall appear and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

CLVIII. If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector, that the appeallant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

CLIX. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

Judgment in appeal.

CLX. In all suits other than those in which when tried and decided by a Collector the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zillah Judge; unless the amount or value in dispute exceed five thousand Rupees, in which case the appeal shall lie to the Sudder Court.

In what suits appeal to lie to Zillah Judge.

To Sudder Court.

CLXI. The petition of appeal shall be written on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal, and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zillah Judge or Sudder Court under this Act.

Rules regarding presentation and hearing of appeals.

CLXII. Suits under this Act shall be preferred in the Revenue office of the District, or when a Sub-division of a District has been placed under the jurisdiction of a Deputy Collector, in the Revenue office of the Sub-division in which the cause of action shall have arisen. Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement, or at one entire rent in respect of which arrears of rent may be due, are situated in more than one District or Sub-division, the District or Sub-division in which the greater part of such lands is situate shall be held to be the District or Sub-division in which the cause of action has arisen; and if any question shall be raised respecting the District or Sub-division in which the greater part of the lands is situate, the Board of Revenue, or if all the lands be situate in one District the Collector of the District shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Suits to be preferred in the Revenue office of the District or Sub-division in which the greater part of the lands is situate.

CLXIII. Except as provided in the last preceding Section, no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the District to which he is appointed by reason of such lands forming part of an estate, the revenue of which is paid into the Treasury of the said District.

Except as above, Collector not to exercise jurisdiction in respect to lands situate beyond his District.

Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.

CLXIV. No Deputy Collector appointed under Regulation IX. 1833 of the Bengal Code, shall exercise any judicial powers or other jurisdiction under this Act, if entrusted with any Police functions.

What powers to be exercised by Assistants to Collectors.

CLXV. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII, 1819.

CLXVI. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent Putnee Talooks and other similar tenures under the provisions of Regulation VIII. 1819.

Commencement of Act.

CLXVII. This Act shall commence and have effect from and after the 1st day of August 1859.

"Civil Jail."

"Nasir."

Number.

Gender.

CLXVIII. The words "Civil Jail" as used in this Act, shall include the Civil Jail of the Zillah and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act. The word "Nazir" shall include any Officer of a Court authorized to serve or execute its process. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number, shall include the singular number, and words importing the masculine gender, shall include females.

SCHEDULE.

FORM A. (*See Section* 44.)

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

[*Name, description, and address of plaintiff.*] A. B., Plaintiff.

[*Name, description, and address of defendant.*] C. D., Defendant.

Whereas the said A. B. has brought a claim against you in this Court for *(here specify particulars of claim as given in the statement,)* you are hereby

required to appear in person in this Court on the day of [*if not specially required to appear in person, state, "in person or by an agent who has personal knowledge of the subject, or who shall be accompanied by a person who has such knowledge"*] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM B. (*See Section* 49.)

FORM OF WARRANT OF ARREST.

No (of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of———

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 185

FORM C. (*See Section* 49.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

[*Name, description, and address of plaintiff.*] A. B., Plaintiff.

[*Name, description, and address of defendant.*] C. D., Defendant.

Whereas the said A. B. has brought a claim against you in this Court for *(here specify particulars of claim as given in the statement)* and has obtain-

ed a warrant for your arrest, you are hereby required, unless you admit the claim to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM D. (*See Section* 51.)

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree; I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.

FORM E. (*See Section* 86.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of ———

Whereas the said C. D. was directed by a decree of this Court, under date the day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM F. (*See Section* 86.)

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of ———

Whereas C. D. was directed by a decree of this Court, under date the day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such movable property of the said C. D., as (is described in the list annexed, and,) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D. on some convenient day not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FORM G. (*See Section* 124.)

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description, and address of the owner of the property.*]

Whereas the said A. B. has applied to have the distrained property, specified below, sold for the recovery of alleged to be due to

him as arrears of rent, you are hereby required either to pay the said sum to the said A. B. or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 185

ACT No. XIV. OF 1859.

An Act to provide for the Limitation of Suits.

Preamble.

WHEREAS it is expedient to amend and consolidate the laws relating to the limitation of suits; It is enacted as follows:—

Limitation of suits.

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in India in which this Act shall be in force, unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding; and the periods of limitation, and the suits to which the same respectively shall be applicable, shall be the following, that is to say:—

Limitaion of one year. Pre-emption suits.

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract, the period of one year to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

Limitation of one year. Suits for damages summary suits, &c.

2. To suits for pecuniary penalties of forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property, or to the reputation to suits for damages for the infringement of copyright or of any exclusive privilege; to suits to recover the wages of servants, artizans, or laborers, the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue Authorities under Regulation V., 1822, of the Madras Code—the period of one year from the time the cause of action arose.

Limitation of one year. Suits to set aside sales under decrees or for arrears of Government Revenue, &c.

3. To suits to set aside the sale of any property, moveable or imoveable, sold under execution of a decree of any Civil Court not established by Royal Charter, when such suit is maintainable; to suits to set aside the sale of any property, moveable or immoveable, for arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putnee-

dar or the proprietor of any other intermediate tenure saleable for current arrears of rent, or other person claiming under him, to set aside the sale of any Putnee Talook or such other tenure sold for current arrears of rent ; to suits to set aside the sale of any property, moveable or immoveable, sold in pursuance of any decree or order of a Collector or other Officer of Revenue—the period of one year from the date at which such sale was confirmed or would otherwise have become final and conclusive if no such suit had been brought.

Limitation of one year.
Suits to set aside attachments, &c., by Revenue Authorities for arrears of Government Revenue.

4. To suits to set aside any attachment, lease, or transfer of any land or interest in land by the Revenue Authorities for arrears of Government Revenue, or to recover any money paid under protest in satisfaction of any claim made by the Revenue Authorities on account of arrears of revenue or demands recoverable as arrears of revenue—one year from the date of such attachment, lease, or transfer, or of such payment as the case may be.

Limitation of one year.
Suits to set aside summary decisions, &c.

5. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter when such suit is maintainable—the period of one year from the date of the final decision, award, or order in the case.

Limitation of three years.
Suits to contest certain award.

6. To suits brought by any person to contest the justice of an award which shall have been made under Regulation VII., 1822, Regulation IX. of 1825, and Regulation IX., 1833 of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

Limitation of three years.
Suits to recover property comprised in an order made under Clause 2, Section 1, Act XVI. of 1838, or Act IV. of 1840.

7. To suits by any party bound by any order respecting the possession of property made under Clause 2, Section 1, Act XVI. of 1838, or Act IV. of 1840, or any person claiming under such party for the recovery of the property comprised in such order—the period of three years from the date of the final order in the case.

Limitation of three years.
Suits for goods sold by retail, &c.

8. To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits for the rents of any buildings or lands (other than summary suits before the Revenue Authorities, under Regulation V., 1822 of the Madras Code)—the period of three years from the time, the cause of action arose.

9. To suits brought to recover money lent or interest, or for the breach of any contract—the period of three years from the time when the

Limitation of three years. Suits for money lent or interest or for breach of contract where no written contract exists.

debt became due or when the breach of contract in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest or a contract in writing signed by the party to be bound thereby or by his duly authorized agent.

Limitation of three years. Suits for the same where there is a written contract which has not been registered within six months.

10. To suits brought to recover money lent or interest, or for the breach of any contract, in any cases in which there is a written engagement or contract, and in which such engagement or contract could have been registered by virtue of any Law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due or when the breach of contract in respect of which the action is brought first took place, unless such engagement or contract shall have been registered within six months from the date thereof.

Limitation of 12 years. Suits for speciality-debts and legacies.

11. To suits in cases governed by English law upon all debts and obligations of record and specialities; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.

Limitation of 12 years. Suits for immoveable property.

12. To suits for recovery of immoveable property or of any interest in immoveable property to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.

Limitation of 12 years. Suits for shares in joint family property and for maintenance.

13. To suits to enforce the right to share in any property, moveable or immoveable, on the ground, that it is joint family property; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons, from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance, as the case may be.

Limitation of 12 years. Suits to resume or assess Lakheraj or rent-free land.

14. To suits by the proprietor of any land or by any person claiming under him, for the resumption or assessment of any Lakheraj or rent-free land—the period of twelve years, from the time when the title of the person claiming the right to resume and assess such lands, or of some person under whom he claims, first accrued. Provided that in estates permanently settled no such suit, although brought within twelve years from the time when the title of such person first accrued shall be maintained, if it is shown that the land has been held Lakheraj or rent-free from the period of the permanent settlement.

Proviso, if the land has been held rent-free from the time of the permanent settlement.

15. To suits against a depositary, pawnee, or mortgagee of any property, moveable or immoveable, for the recovery of the same—a period of thirty years, if the property be moveable, and sixty years if it be immoveable, from the time of the deposit, pawn, or mortgage; or if in the meantime an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption shall have been given in writing signed by the depositary, pawnee or mortgagee, or some person claiming under him, from the date of such acknowledgment in writing.

Limitation for 30 and 60 years respectively.

Suits against depositaries, pawnees, or mortgagees to recover immoveable property.

16. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

Limitation of six years applicable to all suits not especially provided for.

II. No suit against a trustee in his life-time, and no suits against his representatives for the purpose of falling in their hands the specific property which is the subject of the trust, shall be barred by any length of time; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts, unless the same is instituted within the proper period of limitation according to the last preceding Section, to be computed from the decease of such trustee; provided that nothing herein contained shall prevent a co-trustee from enforcing against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Suits against trustees and their representatives for breach of trust, &c.

Proviso.

III. When, by any law now or hereafter to be in force, a shorter period of limitation than that prescribed by this Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

Shorter periods of limitation, if prescribed by particular Acts, to prevail.

IV. If, in respect of any legacy or debt, the person who but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due, by an acknowledgment in writing signed by him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Revival of right to sue by admission in writing.

Proviso.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bonâ fide* and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase. Provided that in the case of purchase from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 15, Section 1.

Computation of period of limitaton in suits to recover proprety purchased from depositaries, pawnees, or mortgagees.

Proviso.

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagor the possession of the immoveable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of such mortgage debt.

Computation of period of limitation in suits in Supreme Courts by mortgagee to recover immoveable property mortgaged.

VII. In suits to avoid incumbrances or under-tenures in an estate sold for arrears of Government Revenue due from such estate, or in a Putnee Talook or other saleable tenure sold for arrears of rent, which by virtue of such sale becomes freed from incumbrances and under-tenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, talook, or tenure became final and conclusive.

Computation of period of limitation in suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.

VIII. In suits for balances of accounts current between merchants and traders who have had mutual dealings, the cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from the close of the year in the accounts, of which there is the last item admitted or proved, indicating the continuance of mutual dealings; such year to be reckoned as the same is reckoned in the accounts.

Computation of period of limitation in suits between merchants for balances of accounts current.

IX. If any person entitled to a right of action shall by means of fraud have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessory thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration, shall be reckoned from the time when the fraud first became known to the person injuriously affected by it or when he first had the means of producing or compelling the production of the concealed document.

Computation of period of limitation in case of concealed fraud.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

Computation of period of limitation in suits where the cause of action is founded on fraud.

XI. If at the time when the right to bring an action first accrues the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

Computation of period of limitation in case of legal disability.

What persons to be deemed to be under legal disability under preceding Section.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

Computation of period of limitation in case of absence of defendant.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India, shall be excluded from such computation unless service of a summons to appear and answer in the suit can, during the absence of such defendant, be made in any mode prescribed by law.

Computation of period of limitation in case of suit prosecuted *bonâ fide*, but in wrong Court.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents, *bonâ fide* and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal, shall have been annulled for any such cause, including the time during which such appeal, if any, has been pending, shall be excluded from such computation.

Person unlawfully dispossessed of immoveable property may recover possession notwithstanding any title that may be set up.

XV. If any person shall without his consent have been dispossessed of any immoveable property otherwise than by due course of law, such person or any person claiming through him shall, in a suit brought to recover possession of such property, be entitled to recover possession thereof, notwithstanding any other title that may be set up in such suit, provided that the suit be commenced within six months from the time of such dispossession. But nothing in this Section shall bar the person from whom such possession shall have been so recovered or any other person instituting a suit to establish his title to such property and to recover possession thereof within the period limited by this Act.

Suit for dispossession to be brought within six months.

Suit to establish title not to be affected.

Act not to interfere with equitable jurisdiction of Supreme Courts.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Act not to extend to public property, nor to suits for the recovery of public claims.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force.

Act not to apply to suits now pending or to suits instituted within two years.

XVIII. All suits that may be now pending, or that shall be instituted within the period of two years from the date of the passing of this Act, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted after the

Suits afterwards instituted to be governed by this Act.

expiration of the said period, shall be governed by this Act, and no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

Proceedings for enforcing judgments, &c. of Supreme Courts to be taken within twelve years.

XIX. No proceeding shall be taken to enforce any judgment, decree, or order of any Court established by Royal Charter, but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same, unless in the meantime such judgment, decree, or order shall have been duly revived or some part of the principal money secured by such judgment, decree, or order, or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable or his agent to the person entitled thereto or his agent, and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment, or acknowledgment or the latest of such revivors, payments, or acknowledgments, as the case may be, provided that for three years next after the passing of this Act, every judgment, decree, and order which may be in force at the date of the passing of this Act shall be governed by the law now in force, any thing therein contained notwithstanding.

Proviso as to judgments now in force.

Time for enforcing execution of judgment, &c. of a Civil Court not established by Royal Charter.

XX. No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order, or to keep the same in force within three years next preceding the application for such execution.

Preceding Section not to apply to judgments, &c. in force at the passing of this Act.

XXI. Nothing in the preceding Section shall apply to any judgment, decree, or order in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon, or within three years next after the passing of this Act, whichever shall first expire.

Time for execution of a summary award of Civil Court of Revenue Authority.

XXII. No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter or of any Revenue Authority, unless some proceeding shall have been taken to enforce such decision or award or to keep the same in force within one year next preceding the application for such execution.

Preceding Section not to apply to summary awards in force at the passing of this Act.

XXIII. Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon, or within two years next after the passing of this Act, whichever shall first expire.

Operation of Act.

XXIV. This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including the Presidency Towns and the Straits' Settlement; but shall not take effect in

any Non-Regulation Province or place until the same shall be extended thereto by public notification by the Governor General in Council, or by the local Government to which such Province or place is subordinate. Whenever this Act shall be extended to any Non-Regulation Province or place by the Governor General in Council or by the local Government to which such Province or place is subordinate, all suits which within such Province or place shall be pending at the date of such notification, or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act, and by no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

Trial of pending suits, &c. in any Non-Regulation Province or place to which the Act is extended.

ACT No. XV. of 1859.

An Act for granting exclusive privileges to Inventors.

WHEREAS Act VI. of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" and whereas Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI. of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having in pursuance of the power vested in them by law disallowed Act VI. of 1856, and having signified to the Governor General of India in Council, their disallowance thereof, the said Act was repealed by Act IX. of 1857: and whereas it is expedient, for the encouragement of Inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive privileges obtained under the said Act should be protected: It is enacted as follows, (the sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute):—

Preamble.

I. The Inventor of any new manufacture may petition the Governor General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the Schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

Inventor may petition for leave to file specification.

Form, &c. of petition.

II. Upon such petition, the Governor General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

Order to file specification.

III. Before making such order, the Governor General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a reasonable fee for such enquiry and report to be paid by the petitioner: the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Majesty's Courts of Judicature in a summary manner.

Power to refer petition for enquiry and report.

IV. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any,) not exceeding fourteen years from the expiration of the first fourteen years, as the Governor General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Petitioner entitled to exclusive privilege for 14 years from the time of filing specification.

Extension of term of exclusive privilege.

V. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor General of India in Council may think expedient.

Order to file specification may be made subject to conditions.

VI. Every specification of an invention filed under this Act, shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed.

Specification to be in writing and to describe the invention.

VII. Every petition for leave to file a specification and every specification filed under this Act shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing signed by the petitioner in the forms or to the effect mentioned in the Schedule hereunto annexed, and if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said Schedule. The date of the delivery of every such

Petition and specification to be left with Secretary to Government.

Petition, &c. to be accompanied by declaration.

Date of delivery to be endorsed on petition.

petition and specification shall be endorsed on the same respectively, and shall also be recorded at the Office of the said Secretary.

False statement in declaration punishable as perjury.

VIII. If any person, who shall make a declaration under this Act, shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

Specification not to be filed before payment of fees.

IX. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

Copies of specification to be delivered and distributed.

X. At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said Secretary five copies thereof, of which one shall be sent to and filed by one of the Secretaries to the Government of Bengal;

One shall be sent to and filed by oneof the Secretaries to the Government of Fort St. George;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay; and

One shall be sent to and filed by one of the Secretaries to the Government of the North Western Provinces.

To be open to inspection.

A copy of such specification shall be open at all reasonable times at the Office of each of the said Secretaries to public inspection upon payment of a fee of one Rupee.

Book for the registry of petitions, specifications, &c.

XI. A book shall be kept in the Office of the said Secretary to the Government of India wherein shall be entered and recorded every such petition and specification and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of Section XIV.

Inspection of registry book.

XII. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one Rupee; and the said Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Certified copy of entry to be given.

Certified copy to be *primâ facie* evidence.

XIII. Every such certified copy shall be *primâ facie* evidence of the document of which it purports to be a copy.

In what cases petitioner may apply for leave to file amended specification.

XIV. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the

inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor General in Council for leave to file a memorandum pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and if he be absent from India by his agent stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed. All the Provisions of Sections X, XI, XII, and XIII, applicable to specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this Section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

Effect of amended specification.

XV. No person shall be entitled to any exclusive privilege under the provisions of this Act—

No person entitled to exclusive privilege in any of the following cases.

If invention of no utility, or

If the invention is of no utility, or

If invention not new, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

If petitioner is not inventor, or

If the petitioner is not the inventor thereof, or

If specification does not describe the invention.

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed, or

If petition of specification contain wilful or fraudulent mis-statement.

If the original or any subsequent petition relating to the invention, or the original or any amended specification contain a wilful or fraudulent mis-statement.

Exclusive privilege to cease if Government declare it mischievous, &c. to public:

Or if Government, upon breach of condition proved, declare that it shall cease.

XVI. Every exclusive privilege under this Act shall cease if the Governor General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's

Courts of Judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

Importer of invention, if not the actual inventor, not to be deemed inventor.

XVII. The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

Foreign inventor.

XVIII. A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

An invention not publicly used or known in the United Kingdom or in India before the application for leave to file his specification, to be deemed a new invention within this Act.

Knowledge of invention fraudulently acquired.

XIX. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication, either printed or written, or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this Section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence:

Proviso.

Public use by inventor.

provided the inventor shall, within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; provided also that the use of an invention in public by the inventor thereof, or by his servants, or agents, or by any other person by his license in writing, for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

Inventor having obtained English Letters Patent, to petition within 12 months from the passing of this Act or from the date of the Letters Patent.

XX. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in the United Kingdom or any part thereof shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor General of India in Council, for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the Schedule) the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such Letters Patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification; provided the petition for leave file the specification shall state that such

Invention if not publicly known or used in India at the time of applying for such Letters Patent to be deemed new.

What to be stated in such petition.

Letters Patent have been granted, and shall also state the date thereof, and the term during which the same are to continue in force. Provided also, that an exclusive privilege, obtained under the provisions of this Act by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

Duration of exclusive privilege.

XXI. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July 1855, used the same in India.

Saving of rights of persons who used invention before 7th of July 1855.

XXII. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided, that no such action shall be maintained in any Court other than the principal Court of original jurisdiction in Civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

Action for infringement.

XXIII. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition, relating to the invention, or the original or any amended specification contains a wilful or fraudulent mis-statement, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or has obtained a right from him to use the invention either wholly or in part. Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it which the infringement shall be proved; but not otherwise.

Defect in specification or petition, or want of novelty in invention, &c.: no defence to action for infringement.

The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.

XXIV.—It shall be lawful for any person to apply by motion to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule), that is to says:—

Application to Supreme Courts to declare exclusive privilege not to have been acquired on following grounds.

That the said invention is of no utility, or

Invention of no utility.

That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention within the meaning of this Act, or

Invention not new.

Petitioner not the inventor.

That the petitioner was not the inventor thereof, or

That the specification filed or the amended specification (if any) does

Invention not described in specification.

not particularly describe and ascertain the nature of the invention or in what manner the same is to be performed, or

That the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part

Fraud in petition or specification.

of his invention, something which was not new or whereof he was not the inventor, or

That the original or any subsequent petition relating to the invention or the original or any amended specification contains a

Fraudulent mis-statement in petition or specification.

wilful or fraududent mis-statement, or

That some part of the invention, or the manner in which that part is to be performed as described in the speification filed

Insufficient description of part of invention in specification.

or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

XXV. Any person may, in like manner, apply to any of Her Majesty's

Like application as to part of an invention.

Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention to be specified in the rule by reason of all or any of the objections following (to be specified in the rule) that is to say—

That such part of the invention is wholly distinct from the other part thereof and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

XXVI. It shall be lawful for the Advocate General at any of the Pre-

Application by Advocate General on breach of special condition.

sidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in Council, to apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of of the exclusive privilege, by the Governor General in Council under the power hereinbefore reserved may in the judgment of the said Governor

General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor General in Council. The costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

Service of proceedings on all persons interested.

XXVII. Notice of any rule obtained or proceeding taken under either of the last three preceding Sections shall be served on all persons appearing to be proprietors or to have shares or interests in the exclusive privilege under the provisions of Section XXXV., of this Act, and it shall not be necessary to serve such notice on any other persons.

Supreme Court may direct issue for trial to other Courts.

XXVIII. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction in Civil cases, of any question of fact arising upon an application under Sections XXIV., XXV. or XXVI. of this Act, and such issue shall be tried accordingly in a summary manner, and, if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it shall appear necessary.

New trial.

Judgment.

XXIX. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Sections XXIV. or XXV. of this Act that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

Costs.

Amendment of specification by Court.

XXX. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification or amended specification (if any), included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error,

defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order. Provided, that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

Proviso.

XXXI. An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

Mis-statement in the petition, if not fraudulent, not to defeat the privilege.

XXXII. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

Entry in Registry book of Judgment, &c., declaring privilege not to have been acquired.

XXXIII. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove to the satisfaction of the principal Court having jurisdiction in Civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act and to account for and pay over the profits thereof.

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

XXXIV. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action, and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections XXIV., XXV. or XXVI. of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged

Particulars to be delivered.

infringement or of any objection impeaching the validity of such exclusive privilege which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always, that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Service of proceedings.

XXXV. A book shall be kept in the Office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at, or in charge of, such place: or, if there be no person resident at, or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by post by a registered letter directed to such person at such place; and if any such person shall neglect to make or cause to be made such entry, the service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court-house or in such other manner as the Court may direct.

Act VI. of 1856 to have effect in respect of certain specifications filed and acts done.

XXXVI. Act VI. of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of every thing done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and, as if the said Act had not been repealed; and the term of every exclusive privilege obtained under the said Act is hereby extended and shall continue until the expiration of fourteen years from the time of the passing of this Act No exclusive privilege obtained under the said Act by an importer not being the actual inventor shall cease to have effect by virtue of the provisions of Section XVI. of the

said Act if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

Stamp on petition.

XXXVII. Every petition for leave to file a specification under the provisions of this Act, or for the extension of the term of an exclusive privilege, shall be written or printed on stamped paper of the value of one hundred Rupees.

Interpretation.

XXXVIII. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

Invention.

The word "invention" shall include an improvement.

"Manufacture."

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture.

"Printed."

The word "printed" shall include "lithographed."

"Inventor" and "actual Inventor."

The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor as the case may be.

"Assigns."

The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time.

"India."

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c, 106, entitled "an Act for the better Government of India."

"Governor General in Council."

The words "Governor General in Council" shall include the President in Council.

"Secretary to the Government of India."

The words "Secretary to the Government of India" shall include any Under-Secretary to the said Government.

"Her Majesty's Courts of Judicature." "Courts of Judicature."

The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

SCHEDULE OF FORMS.

Form of Petition, (*See Section I.*)

To the Governor General of India in Council.

The petition of (*here insert name, addition, and place of residence*) for leave to file a specification under Act No. XV. of 1859.

SHEWETH,

That your petitioner is in possession of an invention for *(state the title of the invention)*, which invention he believes will be of public utility; that he is the inventor thereof *(or, as the case may be, the assignee or the executor or administrator of the inventor)*; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of his knowledge and belief.

The following is a description of the invention (*here describe it.*)

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.,

(Signed)

The day of

FORM OF DECLARATION TO ACCOMPANY PETITION.

(*See Section VII.*)

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for *(state the title of the invention as in the petition)*; that I believe the said invention will be of public utility; that I am the inventor thereof *(or, as the case may be, the assignee or executor or administrator of the inventor)*; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

(Signed)

The day of

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION.

(See Section VII.)

I (here insert name, addition, and place of residence) do solemnly and sincerely declare that I am in possession of an invention for *(state the nature of the invention,)* which invention I believe will be of public utility; that I am the inventor thereof *(or, as the case may be, the assignee or executor or administrator of the inventor)* or that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand hereunto annexed particu-

larly describes and ascertains the nature of the said invention, and in what manner the same is to be performed.

(Signed)

The day of

FORM OF DECLARATION BY AGENT WHEN AN INVENTOR IS ABSENT FROM INDIA.

(*See Section* VII.)

I of do solemnly and sincerely declare that I have been appointed by the said his Agent for the purpose of ; and I verily believe that the declaration purporting to be the declaration of the said marked was assigned by him, and that the contents thereof are true.

(Signed)

The day of

FORM OF PETITION—*(see Section XX.)*

That your petitioner *(or, as the case may be, that A. B. of whom your petitioner is the assignee or executor or administrator)* has obtained Her Majesty's Letters Patent dated the day of for *(state the title of the invention)* and that such Letters Patent are to continue in force for years. That your petitioner believes that the said invention is not now and has not hitherto been publicly known or used in India.

The following is a description of the invention *(here describe it.)*

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.,

(Signed)

The day of

ACT No. XVIII. OF 1859.

An Act to amend the Law relating to Offences declared to be punishable on conviction before a Magistrate.

Preamble.

WHEREAS it is expedient to amend the law relating to offences declared to be punishable on conviction before a Magistrate; It is enacted as follows:—

British subjects how punishable for offences by law made punishable in the Mofussil upon conviction by a Magistrate.

I. If any offence which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender if not otherwise punishable shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

When such offences are committed within the local limits of the jurisdiction of Her Majesty's Court.

II. If any offence which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, the offender if not otherwise punishable shall be liable upon conviction before such Court to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

Jurisdiction expressly given to Justice of the Peace not to be effected.

III. Nothing in this Act shall extend to any case in which jurisdiction is expressly given to a Justice of the Peace to convict the offender.

Construction of Acts which declare the word "Magistrate" to include a Justice of the Peace.

IV. Whenever in any Act heretofore passed by the Governor General in Council the word "Magistrate" is declared to include a Justice of the Peace, such Justice of the Peace shall not by virtue of such Act be deemed to have jurisdiction to punish any offence unless the same shall be committed within the local limits of the jurisdiction of any of the Courts of Judicature established by Royal Charter.

ACT No. XIX. OF 1859.

An Act to continue in force until the end of the year 1859, *Act XXVIII. of* 1857, *(relating to the Importation, Manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same.)*

Preamble.

WHEREAS it is expedient that Act XXVIII. of 1857, *(relating to the Importation, Manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same,)* should continue in force until the end of the year 1859; It is enacted as follows:—

Act XXVIII. of 1857, continued.

I. Act XXVIII. of 1857 shall continue in force until the end of the year 1859.

ACT No. XXI. OF 1859.

An Act for providing for the exercise of certain powers by the Governor General, during his absence from his Council.

Preamble. WHEREAS the Governor General in Council has declared that it is expedient that the Governor General should visit the North Western Provinces of the Presidency of Fort William in Bengal, and other parts of India, unaccompanied by any Member of his Council; It is enacted as follows:—

Powers to be exercised by the Governor General during his absence from Council. I. During the absence of the Governor General from his Council, it shall be lawful for the Governor General alone to exercise all the powers which might be exercised by the Governor General in Council, in every case in which the said Governor General may think it expedient to exercise those powers.

Powers of the President in Council. II. All powers vested in the Governor General in Council by any Act of the Government of India, may be lawfully exercised by the President in Council.

Commencement and duration of Act. III. This Act shall commence from the day on which it shall be notified by an order published in the Official Gazette, that the Governor General has quitted Calcutta for the purpose of so proceeding as aforesaid; and shall not continue in force for a longer period than seven months.

ACT No. XXVI. OF 1859.

An Act to continue in force for a further period, Act XXVIII. of 1857.

Preamble. Whereas it is expedient that Act XXVIII. of 1857, *(relating to the Importation, Manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same,)* should continue in force for a further period. It is enacted as follows:—

Act XXVIII. of 1857, continued till 30th June 1860. I. Act XXVIII. of 1857, shall continue in force until the 30th day of June 1860.

ACT No. XXVII. OF 1859.

An Act to continue in force for a further period, Acts XIV. of 1857, *XVI. of* 1857, *and XVII. of* 1857.

Preamble. Whereas it is expedient that Act XIV. of 1857, *(to make further provision for the trial and punishment of certain offences relating to the Army, and of offences against the State)*, Act XVI. of 1857, *(to make temporary provision for the trial and punishment of heinous offences in certain Districts)*, and Act XVII. of 1857, *(to provide temporarily*

for the apprehension and trial of native officers and soldiers for Mutiny and Desertion), should continue in force until the end of the year 1860; it is enacted as follows:—

Acts XIV. XVI. and XVII. of 1857, continued till the end of the year 1860.

I. Acts XIV. of 1857, XVI. of 1857, and XVII. of 1857, shall continue in force until the end of the year 1860.

ACT No. XXVIII. OF 1859.

An Act to revive and continue in force for a further period. Act XXXIII. of 1857, (*to make further provision relating to Foreigners*).

Preamble.

Whereas by Act XXXIII. of 1857 ("An Act to make further provision relating to Foreigners," which received the assent of the Governor General on the 5th December 1857), it was enacted that, the said act should continue in force for two years; and whereas it is expedient to revive and continue the said Act for a further period; It is enacted as follows:—

Act XXXIII. of 1857 to continue in force for 2 years from 5th December 1859.

5. The said Act XXXIII. of 1857 shall continue in force for the period of two years from the 5th day of December 1859, and shall be deemed and taken to have had effect as if this Act had actually passed and received the assent of the Governor General before the expiration of the said Act XXXIII. of 1857.

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ORDERS OF THE GOVERNMENT,

NORTH WESTERN PROVINCES,

FOR 1859.

JUDICIAL DEPARTMENT.

CIRCULAR No. 2 of 1859.—*From* W. MUIR, *Esquire, Secretary to Government, North Western Provinces, to Commissioner of* .—*Dated Allahabad, the* 17*th January* 1859.

ADVERTING to Para. 14 of the Circular Order No. 5335, dated the 21st December, I am directed by the Right Honorable the Governor General to communicate the following instructions in respect of the grant of licenses to carry Arms :—

2. These will be given to personages of high rank, who remained faithful, and whose position and dignity have heretofore required that they should be allowed to have some armed followers. Under this head, Rajahs, Nawabs, and extensive Lanholders of name and influence, will alone be admitted to the privilege. These should be divided into classes according to their degree. The highest may be allowed to entertain as many as 50 armed men; but generally the number should not exceed 25; and in many cases it should be limited to a lower number. The license may be general, leaving it to the privileged person to choose his followers to the number sanctioned.

3. In the District of Etawah, and some other parts of these Provinces, Landholders rendered essential service to the Government by undertaking, at the request of its Officers, the maintenance of authority and order over a tract of country during the period of disturbance.

4. It is the wish of the Governor General that such persons should retain the privilege of having a number of their servants armed. Wherever, therefore, they do not fall within the class of personages of high rank already provided for in Para. 2, the District Officer will submit an application, stating the services performed, and the number of Arms recommended to be licensed in each case; and the Commissioner is empowered to grant the necessary permission.

5. Where persons of loyalty and respectability are possessed of valuable Fire-arms of European manufacture, or ornamental Arms of any description, they may be allowed to retain them after due registration.

6. The disarming is not to extend beyond the Native population.

CIRCULAR No. 11.—*From* E. C. BAYLEY, *Esquire, Officiating Secretary to Government, North Western Provinces, to Commissioner of* .—*Judicial Department.—Dated Allahabad, the* 1*st March* 1859.

I AM directed to communicate the following instructions, regulating the grant of licenses for the manufacture, sale, and possession of Arms and Ammunition, issued by the Honorable the Lieutenant Governor, under the provisions and supplementary to the conditions of Act XXVIII. of 1857, and in continuation of Circular Orders of this Government, Nos. 5335 of 1858, and 2 of 1859.

2. Licenses will be of 3 kinds, *viz.* (1) to manufacture and deal in Percussion Caps, (2) to manufacture and deal in Arms and Ammunition other than Percussion Caps, and (3) to possess and carry Arms and Ammunition.

3. Of these, license No. 1 will be granted by Commissioners of Divisions alone under the authority, which the Lieutenant Governor hereby conveys to them in accordance with Section VIII. of Act XXVIII. of 1857.

4. License No. 2 may be granted by Magistrates or other Officers in charge of Districts, subject to the general control of the Commissioner of their Division.

5. Licenses Nos. 1 and 2 will be issued on stamped paper of Rs. 16 value, subject *i. e.* to a fee of Rs. 16 on each license. They will be valid for one year only, and renewable at the end of each year, under the same conditions as at the original issue, and on fresh stamped paper of Rs. 16 value. They will be granted only to respectable householders on the production of two respectable sureties, to be bound under suitable penalties that the licensee will not infringe the terms of his license.

6. The holders of licenses Nos. 1 and 2 will be authorized to sell the articles specified in their own license only to persons, producing a license, empowering them to possess and carry Arms and Ammunition of the kinds they wish to purchase, and to the extent noted in that license.

7. They will be instructed to report at the nearest Thanna, on a certain day in each week, to be fixed by the District Officer, the number and amount of sales they have effected during the past week, on penalty of forfeiture of license.

8. These reports will be classified and forwarded to the Magistrate, along with the Thanna Diary of the day.

9. All holders of licenses 1 and 2 will be bound to produce their licenses on the requisition of persons authorized to make such requisition, under penalty of forfeiture of license.

10. The amount of Gunpowder to be kept for sale at one time by any holder of a license No. 2 will not be allowed to exceed 10 maunds. Any breach of the above conditions, as of those specified in Section IX. of Act XXVIII. of 1857, will subject the offender to the forfeiture of his license.

11. Licenses of the kind No. 3 may be granted by Officers in charge of Districts, but only to persons of approved character, or who can produce at least one surety for good behaviour, and who, moreover, have an ostensible means of honest livelihood; and these licenses will be issued on payment of a fee of Rs. 2, and be valid for one year subject to renewal on payment of the same fee at the end of each year, and on the same conditions as at first. The number and description of weapons and the quantity of powder (which ought not to exceed 10 seers) to be covered by the licensee will be specified.

12. The holder of a license No. 3 will be bound, when carrying arms, to produce it on the requisition of any person authorized to demand it, under penalty of forfeiture of license, but such licenses once granted will be valid in any part of the N. W. Provinces for the whole of their term.

13. Licenses of the class No. 3 are revokable by the same authority which granted them on proof of the abuse of such license, or on conviction of holders for any violent, felonious or disloyal conduct.

14. Licenses Nos. 1, 2, and 3 will be issued in English and Oordoo under the Official seal and signature of the issuing Officer, and in the annexed forms A. B. C.

15. For each a separate register and distinct series of numbers will be kept up by the issuing Officer in the forms appended D. E. F. District Officers will furnish to their Commissioners on the 1st of every month, copies of the registers of licenses granted by them, and Commissioners will classify and compile these and their own registers into General Divisional Statements, to be forwarded for the information of Government on the 1st of March and 1st of September. Commissioners will also notify to Magistrates the issue of licenses of the class Nos. 1 and 2, and the latter will in turn weekly inform

each Thanhadar or superior Police Officers of all the licenses issued, during the previous week, to persons who reside within his jurisdiction.

16. Nothing in this Circular must be construed as interfering with the power, vested in Commissioners by Circular Order No. 2 of 1859, of granting special and exceptional licenses, free of the prescribed duty, of the kind No 3, to persons whom they may consider entitled to such distinctive indulgence by their loyalty or other circumstances.

17. No license extends to the manufacture, sale or possession of Cannon or Ammunition for Cannon.

18. All licenses granted previous to the issue of this order, which would, if granted under it, be subject to the payment of the prescribed amount of duty, will be considered valid for one year only from the date of issue, and will be subject to the conditions above specified on renewal at the end of that period.

19. Licenses of all kinds are to be considered strictly personal, untransferable and uninheritable.

20. The renewal of licenses at the expiration of each year will be of course discretionary.

21. The Lieutenant Governor desires me to observe that persons, who wish to take out licenses on behalf of their retainers, will usually be of the classes to whom Commissioners are authorized to grant exceptional licenses, free of all duty, by Circular Order, No. 2 of 1859. It will be sufficient in such cases to require a nominal list of the followers, for whom the privilege is solicited, and the number and description of arms each is intended to carry; such list to be valid, as in the case of an ordinary license, for one year only, at the expiry of which it must be renewed. The privilege is moreover strictly personal, and changes which occur during the year should be likewise notified. Other persons not included under the operations of Circular 2, must take out licenses for such retainers in the ordinary mode.

22. Printed forms of licenses may be procured on indent from the Superintendent of the Government Press direct.

A.

FORM OF LICENSE—No. 1.

_____ *or* _____ *Division.*

No.——OF 185 .

OFFCE SEAL.

This is to certify that _____, son of _____, of the _____ caste, aged_____ years, resident of_____, in Pergunnah _____in Zillah_____, is licensed for one year, from the date of this, to make Percussion Caps, and sell them to persons duly authorized by licenses to purchase them, according to the provisions of those licenses; and is further licensed to have on hand a stock of Percussion Caps, not exceeding_____

This license is not transferable.

الف

نمونہ لیسنس نمبر ۱

یا قسمت

نمبر بابت سنہ ۱۸۵ع

اِس تحریر کي رو سے ولد قوم

عمر ساکن پرگنہ ضلع کو

تاریخ امروز سے ایک سال تک اجازت دي جاتي ھی کہ وہ توپي بندوق کي طیار کرے اور اُن اشخاص کے ھاتھہ بیع کرے جنکو اختیار خریداري از روے لیسنس بموجب شرائط لیسنس حسب ضابطہ حاصل ھو اور نامبردہ مجاز ھی کہ توپي بندوق کي بقدر عدد اپنے پاس رکھے اور واضح ھو کہ یہہ لیسنس دوسرے شخص کے پاس منتقل نہیں ھو سکتا ھی *

دفتر کمشنري

یا قسمت

تاریخ سنہ ۱۸۵ع

دستخط

کمشنر

مقابلہ اور رجسٹري کیا گیا

دستخط

ھیڈ کراني

B.

FORM OF LICENSE—No. 2.

———*Zillah* ———————— ———

No.——OF 185

This is to certify that ————————, son of ————————, of the ———————— caste, aged ——— years, resident of ————————, in Pergunnah ————————, in Zillah ————————, is licensed for one year, from the date of this, to make Arms and Ammunition, other than Percussion Caps, and to sell them to

persons duly authorized by licenses to purchase them, according to the limitations and provisions of those licenses; and is further licensed to have on hand a stock of Gunpowder, not exceeding 10 maunds, and of Weapons, not exceeding the number noted below.

This license is not transferable.

Description of Weapon.	*Number.*

ب

نمونه لیسنس نمبر ۲

مهر دفتر

ضلع

نمبر بابت سنه ۱۸۵۹ع

اِس تحریر کي رو سے ولد قوم

عمر ساکن پرگنه ضلع کو

تاریخ امروزه سے ایک سال تک اجازت دي جاتي هی که وه اسلحه جنگ اور باروت سواے ٹوپي بندوق کے طیار کرے اور اُن اشخاص کے هاتهه بیع کرے جنکو اختیار خریداري از روے لیسنس حاصل هو بموجب شرائط و قیود اُسي لیسنس کے اور نامبرده مجاز هی که باروت بقدر عـــم اوو اسلحه جنگ بقدر اعداد مفصله ذیل اپنے پاس رکهے اور واضح هو که یهه لیسنس دوسرے شخص کے پاس منتقل نهیں هو سکتا هی *

قسم اسلحه	تعداد

دفتر مجسٹریٹي

ضلع

تاریخ سنه ۱۸۵۹ع

دستخط

مجسٹریٹ

مقابله اور رجسٹري کیا گیا

دستخط

هیڈ کلرک

Zillah

No. OF 185 .

This is to certify that , son of , of the caste, aged years, resident of , in Pergunnah , in Zillah , is licensed for one year, from this date, to carry and possess the Gunpowder and Weapons enumerated below.

This license is not transferable.

Name of Weapon.	*Number.*

Weight of Gunpowder Seers.

MAGISTRATE'S OFFICE:
Zillah
The of 185 .

Registered and Examined.

Head Clerk. *Magistrate.*

ضلع

نمبر بابت سنه ۱۸۵ع

اِس تحریر کي رو سے ولد قوم

عمر ساکن پرگنه ضلع کو

تاریخ امروزه سے ایک سال تک اجازت دي جاتي هی که وه باروت اور اسلحه جنگ حسب تفصیل ذیل اپنے پاس رکھے خواه سابهه لے جاوے اور واضح هو که یهه لیسنس دوسرے کے پاس منتقل نهیں هو سکتا هی *

نام سلاح	تعداد

باروت بقدر سیر

دفتر مجسٹریٹي ضلع تاریخ سنه ۱۸۵ع — دستخط — مجسٹریٹ

مقابله اور رجسٹري کیا گیا — دستخط — هیڈ کرانی

C.

Form of License—No. 3.

OFFICE SEAL.

Zillah _____

No. _____ OF 185 .

This is to certify that _____, son of _____, of the _____ caste, aged _____ years, resident of _____, in Pergunnah _____, in Zillah _____, is licensed for one year, from this date, to carry and possess the Gunpowder and Weapons enumerated below.

This license is not transferable.

Name of Weapon.	*Number.*

Weight of Gunpowder _____ Seers.

MAGISTRATE'S OFFICE:
Zillah _____
The _____ *of* _____ 185

Registered and Examined.

Head Clerk. *Magistrate.*

ج

نمونه لیسنس نمبر ۳

مهر دفتر

ضلع

نمبر بابت سنه ۱۸۵ ع

اِس تحریر کي رو سے ولد

عمر ساکن پرگنه ضلع کو

تاریخ امروزه سے ایک سال تک اجازت دي جاتي هی که وه باروت اور اسلحه جنگ حسب تفصیل ذیل اپنے پاس رکھے خواه ساتھه لے جاوے اور واضح هو که یهه لیسنس دوسرے کے پاس منتقل نهیں هو سکتا هی *

نام سلاح	تعداد

باروت بقدر ۱۸

دستخط
مجسٹریت
مقابله اور رجسٹري کیا گیا
دستخط
هیڈ کراني

دفتر مجسٹریٹي
ضلع
تاریخ سنه ۱۸۵ ع

D.

Form of Register for License—No. 1.

No. of License.	Date.	Name of Licensee.	Father's name.	Caste.	Age—Years.	Residence.			Securities with their Residences.	Amount of recognizance.	Quantity of Percussion Caps to be kept in store.	Remarks.
						Village.	Pergunnah.	Zillah.				

E.

Form of Register for License—No. 2.

No. of License.	Date.	Name of Licensee.	Father's name.	Caste.	Age—Years.	Residence.			Securities with their Residences.	Amount of recognizance.	Quantity of Gunpowder to be kept in store.	Number of Weapons to be kept in store.	Remarks.
						Village.	Pergunnah.	Zillah.					

F.

Form of Register for License—No. 3.

No. of License.	Date.	Name of Licensee.	Father's name.	Caste.	Age—Years.	Residence.			Number of Weapons to be carried.	Quantity of Gunpowder to be carried.	Securities, if any, with their Residences.	Remarks.
						Village.	Pergunnah.	Zillah.				

CIRCULAR NO. 12.—*From* E. C. BAYLEY, *Esquire, Officiating Secretary to Government, North Western Provinces, to Commissioners .—Dated Allahabad, the 30th March* 1859.

I AM desired to request that you will in future, instead of forwarding applications for leave of absence, submitted through your Office, direct to Government, send them under flying seal to the Civil Auditor, who will submit a Memorandum with each application for the information of Government.

CIRCULAR No. 15.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to the Commissioner of .—Judicial Department, (Criminal).—Dated Allahabad, the 4th April* 1859.

I AM directed by the Honorable the Lieutenant Governor to request you to take measures for the enforcement in the districts of your Division, of the provision of Act III. of 1857, regarding the establishment of Pounds for stray cattle, and to convey the following instructions for your guidance, which were embodied in orders of this Government, Nos. 2725 and 3008, dated respectively the 24th April and 4th May 1857, addressed to the Commissioner of Agra.

2.—Pounds will be established under the above Act at all Thannah stations, and also at outposts which are under 1st class Jemadars in the several districts within your jurisdiction.

3.—Where they do not already exist, new ones will be constructed at a cost not exceeding, at a Thannah station, Rs. 100, and at a 1st class Jemadar's outpost Rs. 50. The necessary advances may be made from the public funds, though the whole amount expended will be eventually recovered from the receipts of the Pounds themselves.

4.—As it is considered objectionable and inconsistent with the intention of the Act that police officers of any grade should be placed in charge of the Pounds, a separate Pound-keeper will be appointed to each by the Magistrate, on a salary not in any case exceeding Rs. 12 per mensem.

5.—It will be the duty of the Pound-keeper to provide for the proper care and tending of the cattle impounded out of his own salary, and also to keep up the register and account of receipts and disbursements required by Sections 4 and 5 of the Act.

6.—These registers should be strictly kept in an uniform model, a specimen of which is forwarded with this letter. The Lieutenant Governor will leave all minor measures of precautionary detail that may be in the enforcing of the Act to the experience and discretion of the Magistrates themselves under your own general supervision.

7.—As the arrangements above directed are to be considered for the present as only experimental, you will submit, at the end of six months, a report on the general working of the Act, with the accounts of receipts and disbursements under it, for the several districts under your superintendence.

8.—With a view to make generally known the provisions of the Act, printed copies of it in Hindee and Oordoo will be furnished to you for circulation and distribution by the local officers, and you will be careful to see that the notice provided for in the third section of the Act is properly given.

Proposed Form of Register to be kept up by Pound-keepers under Act III. of 1857.

REGISTER OF CATTLE IMPOUNDED AT PERGUNNAH, ZILLAH.

For the ending

Date of reception in Pound.	Species of Animal.	Number of Animals.	Name and Residence of Person by whom seized.	Name of Residence of Owner.	Date of release from Pound.	Amount of Fine paid.	Amount charged for feeding.	Signature* of individual removing animal released on payment of the prescribed Fine.	Signature of Official removing unclaimed animal for sale by auction.	REMARKS.

* Or mark with signature of two witnesses in attention.

DAY BOOK.

No.	Month.	Date	RECEIPT.	Rs.	As.	P.	No.	Month.	Date.	EXPENDITURE.	Rs.	A.	P.

ایکٹ نمبر ۳ بابت سنہ ۱۸۵۷ع

ایکٹ مندرجہ ذیل جلسہ لیجس لیتف کونسل سے تجویز ہوکر پیشگاہ امیر کبیر جناب نواب گورنر جنرل بہادر سے بتاریخ ۳۱ جنوری سنہ ۱۸۵۷ع منظور کیا گیا *

ایکٹ بابت مداخلت بیجا از جانب مویشي

ہرگاہ کاشتکاروں اور قابضان اراضي کو اِس طرح نقصان اور زیرباري ہوتي ہی کہ مویشي کي مداخلت بیجا سے فصل اِستادہ اور دیگر اقسام پیداوار اراضي میں نقصان ہوتا ہی اور ہرگاہ مویشي شارع عام کے کناروں پر اور باندھہ پر مداخلت بیجا کر کے ضرر پہنچاتے ہیں اور یہہ بات قرین مصلحت ہی کہ واسطے گرفتاري اور باندھہ رکھنے مویشیان ضرر رسان کے اختیار دیا جاوے اور واسطے بندوبست مویشي آوارہ جو کسي مقام سرکاري میں پائے جائیں شرائط مناسب نفاذ پاویں لہذا حسب ذیل حکم ہوتا ہی *

دفعہ ۱ دفعہ ۴ قانون ۵ سنہ ۱۸۳۰ع مجموعہ بنگالہ اور دفعات ۱۲ و ۵۲ قانون ۱۱ سنہ ۱۸۱۶ع مجموعہ مندراس اور اُس قدر عبارت دفعات ۱۹ و ۳۵ و ۵۳ قانون ۱۲ سنہ ۱۸۲۷ع مجموعہ بنبئي کي جسمیں مجسٹریٹوں اور افسران پولیس کو اختیار دیا گیا ہی کہ اپني تجویز سے مویشي آوارہ کو گرفتار کر کے بندوبست کریں اِس دفعہ کي رو سے منسوخ ہوئي *

دفعہ ۲ کاشتکار اور قابض اراضي کو اختیار ہوگا کہ جو مویشي اُنکي اراضي پر مداخلت بیجا کر کے اراضي یا فصل یا اَوْر پیداوار کو ضرر پہنچاتا ہو اُسکو گرفتار کر کے بلا توقف بیجا اُس موضع یا قصبہ کي حوالات مویشي میں بھیجدیوے جسمیں اراضي واقع ہو اور اہلکاران موضع و دیگر ملازمان پولیس کو چاہیئے کہ کاشتکاروں اور قابضان اراضي کي درخواست پر گرفتاري مویشي میں اُنکي مدد کریں *

دفعہ ۳ حوالات مویشي ہر تھانہ یا مقام پولیس ضلع یا اَوْر مقامات پر جہاں جہاں صاحب مجسٹریٹ باطاعت احکام لوکل گورنمنٹ تجویز کرے مقرر ہونگي اور جس موضع یا مواضع سے ہر ایک حوالات مویشي متعلق ہو صاحب مجسٹریٹ کي تجویز سے قرار پاکر مشتہر کیئے جائینگے *

دفعہ ۴ حوالاتہاے مذکورہ صاحب مجسٹریٹ ضلع کے زیر اختیار رہینگي اور ہر حوالات پر ایک محافظ متعین رہیگا اور محافظ مذکور حسب ہدایت لوکل گورنمنٹ بہي جات رجسٹر مرتب کر کے کیفیت ارسال کرتا رہیگا مگر شرط یہہ ہی کہ پریزیڈنسي ہاے مندراس و بنبئي میں سرگروہ موضع و پولیس پاٹل لوگ بلا تقرر خاص کے حوالات موضع کے محافظ سمجھے جائینگے *

دفعہ ۵ جب مویشي حوالات میں پہنچیں تو محافظ کو چاہیئے کہ تعداد اور تفصیل قسم جانور اور نام و سکونت گرفتار کنندہ معہ نام و سکونت مالک جانور اگر معلوم ہو اپنے رجسٹر میں درج کر کے نقل فرد رجسٹر کي گرفتار کنندہ کو دیوے معہذا محافظ کو لازم ہی کہ جب تک مویشي حسب مندرجہ ذیل اُسکي سپردگي سے علیحدہ نہووے مویشي کي خبر گیري و خوراک کي فکر مناسب کرے *

دفعہ ۶ ' ہر مویشي پر جو حسب مفصلہ بالا حوالات میں آوے جرمانہ حسب شرح ذیل لیا جاویگا *

ہر اُونٹ یا بھینس پیچھے -- -- -- -- -- -- -- -- -- -- ۸ر
ہر اسپ یا یابو یا سانڈ یا بیل یا گوماده پیچھے -- -- -- -- -- -- ۴ر
ہر بچھ گاو یا خر پیچھے -- -- -- -- -- -- -- -- -- -- ۲ر
ہر بھیڑي یا بکري پیچھے -- -- -- -- -- -- -- -- -- -- ۱ر

اور سواے اُس صورت کے جسمیں حاکم ذي اختیار سے حکم آوے محافظ کسي مویشي کو بلا اخذ جرمانہ مقررہ کے رہا نکریگا *

دفعہ ۷ اگر مالک حاضر ہوکر مویشي کا دعوي کرے تو بعد لینے جرمانہ مقررہ معہ قیمت خوراک بموجب اُس شرح کے جو بتجویز صاحب مجسٹریٹ وقتاً فوقتاً قرار پاوے مویشي مالک کو واپس کیا جائیگا اور بر وقت لینے مویشي کے مالک محافظ کے رجسٹر میں اُسکي رسید لکھہ کر دستخط کر دیگا اور فہرست تعداد جرمانہ اور شرح قیمت خوراک مویشي مذکور ہر ایک حوالات کے اندر یا اُسکے قرب میں کسي مقام نظرگاہ عام پر آویزان کي جائیگي *

دفعہ ۸ اگر حوالات میں آنے کي تاریخ سے سات دن کے اندر مویشي کا کوئي دعوي‌دار نہو تو محافظ کو چاہیئے کہ داروغہ یا پولیس افسر ضلع کے پاس اُسکي رپورٹ بھیجے اور داروغہ یا پولیس افسر اشتہار متضمن تفصیل تعداد اور قسم مویشي اور مقام گرفتاري اور مقام حوالات تھانہ کے کسي منظر عام پر آویزان کر کے اُس گانوں میں اور اُس بازار یا ہاٹ میں جو مقام گرفتاري سے قریب تر ہو بذریعہ ضرب دھل اُسکي منادي کراویگا اور اگر تاریخ اشتہار سے سات روز کے اندر مویشي کا کوئي دعوي‌دار نہووے تو داروغہ یا پولیس افسر ضلع یا پولیس کا کوئي آفسر اہلکار جو اُس کام کے واسطے مقرر ہوگا مویشي کو نیلام کریگا *

دفعہ ۹ اگر مالک مویشي حاضر آکر جرمانہ اور خرچ خوراک کے دینے سے انکار کرے تو کل مویشي یا جس قدر مناسب معلوم ہو واسطے حصول زر جرمانہ اور خرچ خوراک کے معرفت داروغہ یا دیگر اہلکار مفصلہ بالا نیلام کیا جائیگا اور مویشي باقي ماندہ معہ بقایاے زر ثمن نیلام اگر کچھہ باقي رہے مالک کو بشمول قطعہ فرد حساب دیا جاویگا اور اس فرد میں تعداد مویشي گرفتار شدہ اور وقت ادخال حوالات اور صرف بابت جرمانہ و خوراک اور تعداد مویشي نیلام شدہ اور تعداد زر ثمن اور تفصیل تصرف زر ثمن مندرج ہونگي اور مالک قطعہ رسید بابت مویشي واپس یافتہ اور بقایاے زر ثمن جو اُسکو بموجب فرد حساب کے دیا جاوے لکھدیویگا مگر شرط یہہ ہی کہ اگر نالش بخارضي گرفتاري مویشي بموجب دفعہ ۱۴ ایکٹ ہذا پیش کي جاوے تو جب تک نالش فیصل نہو لیوے قیام ملتوي رہیگا بلکہ جو کچھہ حکم نالش مذکور پر صادر ہووے وقوع اور عدم وقوع نیلام اُسپر منحصر رہیگا *

دفعہ ۱۰ پولیس افسران اور محافظان حوالات کو تاکید کي جاتي ہی کہ وہ کسي نہج پر صریحاً یا حیلتاً مویشي مذکور کو جو بموجب ایکٹ ہذا نیلام ہوویں نہ خرید کریں *

دفعہ ۱۱ جب مویشي حسب شرائط ایکت هذا نیلام هوں تو زر جرمانه جو قابل اخذ هووے اور کل خرچ خوراک معه خرچ نیلام اگر نیلام میں کچھه خرچ هوا هو زر ثمن سے وضع کیا جائیگا اور داروغه یا پولیس افسر ضلع کو چاهیئے که جو کچھه زر جرمانه اُنکو وصول هووے یا بموجب دفعه ۷ ایکت هذا محافظان حوالات کو وصول هووے حضور صاحب مجسٹریت میں ارسال کریں اور خرچ خوراک جو زر ثمن نیلام سے وضع کیا جاوے محافظوں کو دیا جائیگا اور جو کچھه روپیه محافظوں کو بابت خرچ اقسام مذکوره بموجب دفعه ۷ کے وصول هو وه اُنکے پاس رهیگا اور مویشي لاوارثي کے نیلام سے جو کچھه زر ثمن فاضل رهے وه صاحب مجسٹریت کے پاس بهیجا جاویگا اور صاحب موصوف اُس زر کو تین مهینے تک تپازت میں رکهیگا اور اگر اُس میعاد کے اندر کوئي دعوي پیش هوکر ثابت نکیا جاویگا تو صاحب موصوف زر مذکور کي نسبت حسب مفصله ذیل کاربند هوگا *

دفعه ۱۲ جو روپیه بابت جرمانه وصول هو یا مویشي لاوارثي کے نیلام سے حاصل هو اور اُسکي بابت دعوي نهو وه کل روپیه یکجا هو کے اِس غرض سے جمع رهیگا که اُسمیں سے تنخواه محافظان حوالات بموجب احکام لوکل گورنمنٹ جو کچھه قرار پاوے یا خرچ بابت تعمیر اور قیام جاے حوالات یا اَوْر قسم کے اخراجات جو اِس ایکت کي تعمیل میں ضرور پڑیں دیئے جائینگے *

دفعه ۱۳ اگر کوئي شخص جبراً اُس مویشي کي گرفتاري میں مزاحم هووے جو کسي اراضي یا فصل یا دیگر پیداوار اراضي کو نقصان پهنچاتا هووے یا بعد گرفتاري مویشي کے جبراً حوالات سے چهڑا لاوے یا جب گرفتار کننده اُس مویشي کو حوالات میں لے جاتا هووے جبراً اُسکے هاتهه سے چهڑا لیوے تو مجرم مذکور سزاوار قید بلا یا با مشقت تا میعاد چهه مهینه یا مستوجب جرمانه تا مبلغ پانسو روپیه کے هوگا یا اِسکے که هر دو سزا قید اور جرمانه اُسپر عائد کي جاویں اور واضح هو که افسران پولیس تجویز جرائم مفصله دفعه هذا بموجب دفعه ۲۵ قانون ۲۰ سنه ۱۸۱۷ع مجموعه بنگاله اور دفعه ۲۷ قانون ۱۱ سنه ۱۸۱۶ع مجموعه مندراس اور دفعه ۴۳ قانون ۱۲ سنه ۱۸۲۷ع مجموعه بنبئي عمل میں لاوینگے *

دفعه ۱۴ هر شخص کو جسکا مویشي اِس علت میں گرفتار هوکر حوالات میں کیا گیا هو که اُس مویشي نے اراضي یا فصل یا پیداوار اراضي کو نقصان پهنچایا اختیار هی که بنباراضي گرفتاري مذکوره تاریخ گرفتاري سے دس روز کے اندر بحضور صاحب مجسٹریت یا جائینٹ یا ڈپٹي یا اِسسٹنٹ مجسٹریت یا دوسرے اهلکار کے حضور جو اختیار فوجداري رکهتا هو اور جو بلا سپردگي مجسٹریت کے اختیار سماعت اور تجویز جرائم کا رکهتا هووے نالش کرے معهذا مستغیث کو اختیار هی که شکایت زباني کرے اور اُس صورت میں صاحب مجسٹریت یا دوسرا اهلکار مذکور اُسکي شکایت قلمبند کریگا یا اپني شکایت کاغذ ساده پر لکهکے اصالتاً حاضر هوکر داخل کرے یا معرفت ایسے مختار کے گذرانے جو حالات سے خود واقف هووے اور اگر مجسٹریت یا دوسرا اهلکار مذکور بعد سماعت بیان مستغیث یا اُسکے مختار کے شکایت کو راست اور درست تصور کرے تو مجسٹریت یا اهلکار مذکور مستغاث‌علیه کو طلب کر کے مقدمه کي تحقیقات سرسري شروع کریگا اور اگر اُسکے نزدیک گرفتاري ناجائز قرار پاوے تو مستغیث کو اُس قدر زر هرجه دلایا جاویگا جو بمعاوضه اُس نقصان یا زیرباري کے جو گرفتاري اور قبضه‌داري ناجائز مویشي سے اُسکے عائد حال هوا هو اور اُس روپیه کے جو ارجاع نالش اور واپس پانے مویشي میں صرف هوا هو مناسب معلوم هووے مگر زر هرجه کسي صورت میں ایک سو روپیه سے زائد نهوگا اور اگر مویشي رها نکیا گیا هو تو مجسٹریت یا دیگر

اهلکار مذکور سواے حکم دلانے هرجه کے اُسکي رهائي کا حکم دیگا اور اِس بات کي هدایت صادر کریگا که زر جرمانه اور صرف خوراک وغیره جو بموجب ایکت هذا قابل اخذ هیں گرفتار کننده سے لیا جاوے اور لوکل گورنمنٹ کو اختیار هی که منصفوں اور دیگر اهلکاران عدالت کو جو سماعت ابتدائي کے مجاز هیں اور اختیارات فوجداري نهیں رکهتے هیں یهه اختیار جدید عطا کرے که وه مقدمات متعلقه دفعه هذا کو سماعت اور فیصل کریں لیکن جو وقت تعمیل اختیار مذکور کے منصف وغیره اُنهیں قواعد کے پابند هونگے جو صاحبان اسسٹنٹ اور دیگر اهلکاران ماتحت مجسٹریت سے متعلق هیں *

دفعه ۱۵ اهلکاران مهتمم شارع عام اور انهار اور باندهه وغیره کو اختیار هی که جو مویشي شارع یا نهر یا باندهه کے کنارے یا ڈهال پر نقصان کرتے هوں اُنکو گرفتار کریں یا کراویں اور جمله شرائط ایکت هذا جو دفعات بالا میں مندرج هیں گرفتاري مذکور سے متعلق هونگے *

دفعه ۱۶ اهلکاران موضع اور دیگر افسران پولیس کو چاهیئے که جس قدر مویشي کسي سڑک یا مقام سرکاري میں آواره پائے جائیں اور جنکے مالک نا معلوم هوں اُنکو حوالات مقرره دفعه ۳ ایکت هذا میں پهنچاویں اِس صورت میں جمله شرائط ایکت هذا در باب باندهه رکهنے اور رها اور نیلام کرنے اُن مویشي کے جو بحالت مداخلت بیجا یا ضرر رساني کے گرفتار هوویں اُن مویشي سے بهي متعلق هونگے جو بموجب دفعه هذا حوالات میں پهنچا کریں *

دفعه ۱۷ اگر کوئي شخص مویشي سے بیجا مداخلت کراکے مرتکب ضرر رساني هووے تو جو کچهه سزا اُس جرم کي مقرر هی وه بر طبق گذرنے نالش اُس شخص کے جو بموجب دفعه ۲ ایکت هذا اختیار گرفتاري مویشي کا رکهتا هی یا اُس شخص کے جسنے زر تقاوي بابت کاشت اراضي اور حصول پیداوار کے دیا هو تجویز هو سکتي هی اور جو کچهه جرمانه بر وقت تجویز قرار پاوے وه اُس مویشي کے نیلام سے جسنے مداخلت بیجا کی هو یا اُسکے جزو کے نیلام سے عام اِس سے که مویشي حالت ارتکاب مداخلت بیجا میں گرفتار هوا هو یا نهیں اور بلا لحاظ اِسکے که مویشي مذکور بخاص اُس شخص کا مال تها جسپر جرم ثابت هوا یا بر وقت وقوع مداخلت صرف اُسکي سپردگي میں تها وصول کیا جاویگا *

دفعه ۱۸ اگر کوئي مالک یا پاسبان سؤروں کا غفلت سے یا بوجهه دیگر کسي اراضي یا فصل یا پیداوار اراضي پر اِس طرح نقصان کرے یا کراوے که سؤر اُنپر مداخلت بیجا کرنے پاوے تو شخص مذکور بعلت جرم مزبور دس روپیه تک کے جرمانه کا مستوجب هوگا اور جو کچهه روپیه بموجب دفعه هذا اور دفعه ۱۷ ایکت هذا وصول کیا جاوے کل یا جزو اُسکا بمعاوضه اُس خساره کے جو بعد ثبوت اطمیناني صاحب مجسٹریت کے عائد حال مستغیث هوا هو مستغیث کو دلایا جائیگا *

دفعه ۱۹ اِس ایکت کي کسي عبارت سے اُس شخص کو جسکي فصل یا پیداوار اراضي بوجهه مداخلت بیجا مویشي برباد هوئي هو اِس امر کي ممانعت نهوگي که وه محکمه ذي اختیار میں نالش زر خساره کي پیش کرے اِلا شرط یهه هی که اگر کچهه روپیه بطور معاوضه بتجویز صاحب مجسٹریت نالش کننده کو دلایا گیا هو تو وه روپیه تعداد خساره میں جسکا وه دعویدار هی یا جو حکم حاکم سے اُسکو دلایا جاوے رفع کیا جاویگا *

دفعه ۲۰ بعد حصول منظوري امير كبير جناب نواب گورنر جنرل اجلاس كونسل كے لوكل گورنمنٹ كو اختيار هى كه جس ضلع يا خطه زمين ميں جاري هونا شرائط ايكٹ هذا كا بدانست گورنمنٹ مذكورة نا مناسب معلوم هو ايكٹ هذا كو اُس ضلع يا خطه ميں نافذ نفرماويں *

دفعه ۲۱ بر وقت اخذ معني عبارت ايكٹ هذا الفاظ بمعني واحد الفاظ بمعني جمع پر اور الفاظ جمع الفاظ واحد پر حاوي هونگے اور الفاظ بمعني مذكر مؤنث پر بهي دلالت كرينگے اور لفظ مجسٹريت ميں جائينٹ مجسٹريت اور هر ايک اهلكار جو قانوناً اختيار مجسٹريتي عمل ميں لاتا هو شامل هوگا اور اضلاع مغربي و شمالي ميں لفظ داروغه و پوليس افسر ضلع اُس تحصيلدار يا نائب تحصيلدار پر دال هوگا جسكو اختيارات پوليس حاصل هيں *

دفعه ۲۲ ايكٹ هذا يكم مئي سنه ۱۸۵۷ع سے نافذ اور واجب‌التعميل هوگا *

ऐक्ट नम्बर ३ सन् १८५० ई०

यह ऐक्ट जो नीचे लिखा है लेजिस लेटिव सभा से तजवीज़ होकर श्रीयुत गवर्नर जनरल बहादुर के हुज़ूर से ३१ जनवरी सन् १८५० ई० को मंज़ूर किया गया ॥

पशुओं से कृषी आदि की हानि के बिषय में

किसानों और ज़मीनदारों को पशुओं के कारण खेती खड़े नाज वा कंदमूलादि पैदावारों में हानि होती है और सड़क वा बांद के किनारों पर नुकसान पहुंचता है इस से यह बिचार करा है कि उन पशुओं के पकड़ने और बांधने का अधिकार दिया जाय और जो पशु भूले भटके पाये जाते हैं उनका बन्दोबस्त कराया जाय इसलिये नीचे लिखी हुई आज्ञायें दीजाती हैं ॥

१ बंगाले के क़ानून ५ सन् १८३० ईसवी की दफ़ा ४ मन्दराज के क़ानून ११ सन् १८१६ ईसवी की दफ़ा १२ और ५२ और बंबई के क़ानून १२ सन् १८२७ ईसवी की दफ़ा १६ और ४५ और ५३ की उतनी बातें जिस में मेजिस्ट्रेटों और पुलिस के अधिष्ठाताओं को अधिकार दिया गया है कि अपनी तदबीर से भूले भटके पशुओं को पकड़कर बन्दोबस्त करें इस दफ़ा के अनुसार वे सब दफ़ायें नष्ट हुईं ॥

२ किसानों और ज़मीनदारों को अधिकार होगा कि जो पशु उनकी ज़मीन में आकर खेत वा पैदावार को बिनासें उनको शीघ्र पकड़कर उस गांव वा क़सबे की जिस में ज़मीन लगती हो पशुओं की हवालात में भेजदें और गांव के अहल-

कार और पुलिस के नौकरों को चाहिये कि किसानों और ज़मीनदारों के कहने पर पशुओं के पकड़ने में सहायता करें ॥

३ हर थाने या मुक़ाम पुलिस ज़िले वा और स्थानों पर जहां जहां साहिब मेजिस्ट्रेट लोकल गवर्नमेंट की आज्ञानुसार तजवीज़ करे यह पशुओं की हवालात मुक़र्रर होगी और जिस गांव अथवा गांवों से वे पशुओं की हवालातें लगती होंगी साहिब मेजिस्ट्रेट की तजवीज़ से निश्चय होकर प्रगट करी जायंगी ॥

४ ये सब हवालातें ज़िले के साहिब मेजिस्ट्रेट के अधिकार में रहेंगी और प्रत्येक हवालात पर एक रखवाला रहेगा वह रखवाला लोकलगवर्नमेंट की आज्ञानुसार रजिस्टर बही तैयार करके केफ़ियत भेजता रहेगा परंतु हाते मन्द्राज और बंबई में जब तक और आज्ञा ख़ास जारी न हो तब तक गांव के सरदार वा पुलिस पाटल लोग गांव की हवालात के रखवाले समझे जायंगे ॥

५ जब पशु हवालात में पहुचें तब हवालात के रखवाले को उचित होगा कि उनकी गिनती और क़िस्म पकड़नेवाले का स्थान और नाम और पशु के मालिक का नाम और स्थान जो मालूम होय अपनी रजिस्टर बही में लिखकर नक़लपत्र रजिस्टर का पकड़नेवाले को दे दे और जब तक पशु नीचे लिखे अनुसार उसके अधिकार में रहें तब तक उनके खाने पीने का उपाय करे ॥

६ हर एक पशु जो ऊपर लिखे अनुसार हवालात में आवेगा तो नीचे लिखे हुए निर्ख़ के बमूजिब जरीमाना लिया जायगा ॥

प्रत्येक ऊंट वा भैंस पीछे	॥)
प्रत्येक टट्टू घोड़ा सांड़ बैल वा गाय पीछे	।)
प्रत्येक गाय के बच्चे वा गधे पीछे	=)
प्रत्येक भेड़ वा बकरी पीछे	-)

और रखवाला सिवाय हुक्म हाकिम अधिकारवाले के बिना जुर्माना लिये किसी पशु को न छोड़ेगा ॥

७ जो मालिक आकर अपने पशु का दावा करे तो निश्चित जुर्माना मय क़ीमत ख़ुराक़ उस निर्ख़ के अनुसार जो साहिब मेजिस्ट्रेट की आज्ञा से नियत होय लेकर पशु मालिक को फेर दिया जायगा और मालिक पशु के लेने के समय रखवाले की रजिस्टर बही में रसीद लिखकर अपने दस्तख़त करेगा एक फ़िहरिस्त जुर्माने की और पशु की ख़ुराक क़ीमत की प्रत्येक हवालात के भीतर अथवा उसके निकट, ऐसे स्थान पर जिस में सब लोग देख सकें लटकाई जायगी ॥

८ यदि हवालात में आने की तारीख़ से ७ दिन के भीतर पशु का कोई दावेदार न होय तो रखवाले को उचित है कि दरोग़ा अथवा पुलिस के अफ़सर के पास उसकी ख़बर भेजदे और दरोग़ा वा पुलिस का अफ़सर एक इश्तहार जिस में पशुओं की संज्ञा ज़ात और पकड़ने का स्थान लिखा रहेगा थाने की किसी प्रसिद्ध जगह पर लटकावेगा और इश्तहार की तारीख़ से ७ दिन के भीतर पशु का कोई दावेदार न हो तो दरोग़ा वा पुलिस का अफ़सर ज़िला या कोई और अधिकारी जो उस काम के लिये नियत होगा पशु को नीलाम करेगा ॥

९ जो पशु का मालिक आकर जुर्माना और ख़ुराक़ ख़र्च के दाम देने में नाहीं करे तो युक्त दामों के प्राप्त करने के लिये सब या थोड़े पशु जितने उचित समझे दरोग़ा वा किसी और ऊपर लिखे अधिकारी की मारफ़त नीलाम किये जायंगे और बाक़ी रहे पशु मय उस द्रव्य के जो नीलाम के रुपये में से ख़ुराकादि ख़र्च लेके बाक़ी रहे मालिक के हिसाब की फ़र्द के साथ दिया जायगा उस फ़र्द में पकड़े हुए पशुओं की गिनती और हवालात में आने का समय और ख़र्च जुर्माना और ख़ुराक़ और गिनती उन पशुओं की जो नीलाम हुए और उनके दाम और नीलाम के दामों से जो ख़र्च हुआ हो उसकी तफ़सील लिखी जायगी और मालिक रसीद पशुओं और दामों की जो उसे मिले लिख देगा परंतु जो पशु के पकड़ने की नाराज़ी में इस ऐक्ट की १४ दफ़े के अनुसार नालिश की जावे तो जब तक फ़ैसला न हो तब तक पशु नीलाम न होगा अर्थात् जो कुछ हुक्म नालिश पर दिया जाय नीलाम होना या न होना उसी पर निश्चय रहेगा ॥

१० पुलिस के अधिकारी और हवालात के रखवाले को मना किया जाता है कि वे आप किसी तरह से प्रगट वा गुप्त उस पशु को जो इस ऐक्ट के अनुसार नीलाम होय ख़रीद न करें ॥

११ जब पशु इस ऐक्ट के अनुसार नीलाम हो तब जुर्माने का रुपया जो लेने के लायक़ हो और सब ख़र्च ख़ुराक़ नीलाम का ख़र्च जो कुछ पड़ा हो सो नीलाम के द्रव्य से लिया जायगा और दरोग़ा वा पुलिस के अधिकारी को चाहिये कि जो कुछ जुर्माना उनके पास जमा हो इस ऐक्ट की १० दफ़े के अनुसार हवालात के रखवाले पास जमा हो सो सब साहिब मेजिस्ट्रेट के पास भेज दे और ख़र्च ख़ुराक़ जो नीलाम के रुपये से लिया जाय वह रखवालों को दिया जायगा और रखवाले को जो कुछ रुपया ऊपर के ख़र्चों के मध्ये ७ दफ़े के अनुसार मिला हो उसके पास रहेगा और अनाथ पशुओं के नीलाम में से जो कुछ रुपया ख़र्चकर बाक़ी रहे वह साहिब मेजिस्ट्रेट के पास भेजा

जायगा साहिब मेजिस्ट्रेट उन रुपयों को ३ महीने तक अमानत रक्खेगा और जो उस समय के भीतर कोई दावा पेश होकर साबित नहीं किया जायगा तो साहिब मेजिस्ट्रेट उस रुपये को नीचे लिखे अनुसार काम में लावेगा ॥

१२ जो रुपया जुर्माने से प्राप्त हो अथवा अनाथ पशु के नीलाम से मिले और उसके लिये दावो न हो तो वह सब रुपया इकट्ठा करके इस अभिप्राय से जमा रहेगा कि उस में से हवालात के रखवाले की तलब लोकल गवर्नमेंट की आज्ञा से निश्चय करी जाय वा जो ख़र्च हवालात के मकान बनाने में और उसके बन्दोबस्त में पड़े दिया जायगा ॥

१३ जो कोई मनुष्य किसी की ज़मीन वा फ़सलों वा और पैदावार को बिगाड़ते पशु के पकड़ने में जोरावरी मना करे वा पशु को पकड़े जाने के पीछे जोरावरी हवालात से छुड़ा लावे वा जब पकड़नेवाला उस पशु को हवालात में लेजाता हो उसके हाथ से ज़बरदस्ती छुड़ाय ले तो वह मनुष्य बिना महनत वा महनत सहित ६ महीने की मीआद की क़ैद वा ५००) रुपये जुर्माने के लायक़ होगा या उसको दोनों प्रकार के दंड मिलें प्रगट हो कि पुलिस के अधिकारी इस दफ़े में लिखे अपराधियों की बंगाले के क़ानून २० सन् १६१० ईसवी की दफ़ा २५ और मन्दराज के क़ानून ११ सन् १८१६ ईसवी की दफ़ा २० और बंबई के क़ानून १२ सन् १८२० ई० की दफ़े ४३ के अनुसार तजवीज़ करेंगे ॥

१४ जिन मनुष्यों का पशु ज़मीन वा खेत वा पैदावारी ज़मीन को बिगाड़ते पकड़ा गया होय तो उन्हें इख़्तियार है कि जो वे पशु के पकड़े जाने की तारीख़ से १० दिन के भीतर साहिब मेजिस्ट्रेट वा जाइंट वा टिपटी वा असिस्टेंट मेजिस्ट्रेट वा दूसरे अधिकारी जिसे फ़ौजदारी का अधिकार हो और जो बिना सुपुर्दगी मेजिस्ट्रेट के सुनने और अपराधों की तजवीज़ करने का अधिकार रखते हों उनकी कचहरी में नालिश करे और सिवाय इन बातों के फ़रयादी को उचित है कि वह मुंह से कहे उस सूरत में साहिब मेजिस्ट्रेट वा दूसरा अधिकारी उसकी फ़रयाद आप लिखेगा वा अपने दुःख को सादे काग़ज़ पर लिखकर आप दाख़िल करे वा किसी ऐसे मुख़्तियार के हाथ गुज़राने जो उन बातों में समझता हो और जो मेजिस्ट्रेट वा दूसरा अधिकारी फ़रयाद को सुनकर सच समझे तो उस मनुष्य को जिस पर नालिश हो बुलाकर मुक़द्दमे की तहक़ीक़ात सरसरी शुरू करे और जो उसके पशु का पकड़ना अनुचित हो तो फ़रयादी को उसको ज़ेरबारी और नुक़सान के मद्दे इतना हरजे का रुपया दिलाया जायगा जितना नालिश करने वा पशु की ख़ुराक ख़र्च होना मुनासिब मालूम होगा परंतु हरजे

के दाम ५००) रुपये से बढ़ती न होंगे और जो पशु छोड़ा न गया हो तो मेजिस्ट्रेट वा और अधिकारी हरजे के दाम दिलाने के सिवाय उसके छोड़ देने का आज्ञा देगा और यह बात जता देगा कि जुर्माना और ख़ुराक आदि ख़र्च जो इस ऐक्ट के नियम से लेने के लायक़ है पकड़नेवाले से लिया जावे और लोकल गवर्नमेंट को इख़्तियार है कि मुनसिफ़ वा और दूसरे अदालत के अधिकारियों को जिनको पहिली नालिश सुनने का अधिकार है और फ़ौजदारी का नहीं है यह नवीन अधिकार उन्हें दे कि वह मुक़द्दमा जो इस दफ़े के अनुसार हो सुने और फ़ैसला करे मुन्सिफ़ आदि ऊपर लिखे हुए अधिकारों को पाकर उन्हीं क़ायदों पर चलेंगे जिन पर साहिब असिस्टेंट और मेजिस्ट्रेट से नीचे वा दूसरे अधिकारी चलते हैं अर्थात् उन्हें असिस्टेंट और जाइंट मेजिस्ट्रेट से विशेष अधिकार नहीं है ॥

१५ रस्ते वा नहर वा बांद आदि के अधिकारियों को इस बात का इख़्तियार है कि जो पशु रस्ते वा बांद के किनारे ढाल को नुकसान करता होय उन्हें पकड़े वा पकड़वावे और सब शर्तें जो इस ऐक्ट की ऊपर की दफ़ों में लिखी गई हैं उस गिरफ़्तारी से मुताल्लिक़ होंगी ॥

१६ गांव वा पुलिस के अधिकारी को चाहिये कि जहां कहीं पैाहे को किसी सड़क वा सरकारी मकान में छूटे फिरते हुए पावे और जिनके मालिक न मिलें उन्हें इस ऐक्ट की दफ़ा ३ में लिखी हुई हवालात में पहुंचावे इस ऐक्ट की सब शर्तें जो उन पशुओं के लिये जिन्हें बिगाड़ करने के कारण बांध रखने वा छोड़ देने और नीलाम करने में प्रचलित हैं वे सब इन पशुओं के जो इस दफ़े के अनुसार हवालात में पहुंचा केरेंगे घटित होंगी ॥

१७ यदि कोई मनुष्य पशु से कुसूर कराके किसी चीज़ पर नुक़सान पहुंचावे तो उस मनुष्य को जो इस ऐक्ट की दफ़ा २ के समान पकड़ने का अधिकार रखता हो या उस मनुष्य को जिसने पहिले द्रव्य ज़मीन की जुताई और पैदावार लेने को दिया है उनकी नालिश करने के समय उस अपराध के दंड की तजवीज़ की जायगी और इस तजवीज़ के समय जो कुछ जुर्माना निश्चय होगा वह सब या थोड़े अपराधी पशुओं को नीलामकर प्राप्त किया जायगा और यह विचार नहीं किया जायगा कि पशु जिस समय कुसूर करता था उसी समय पकड़ा गया था वा नहीं या वह पशु ख़ास माल उस मनुष्य का था जिस पर अपराध साबित हुआ या अपराध करने के समय केवल उस मनुष्य की रखवाली में था ॥

१८ जो कोई सूकरों का मालिक या रखवाला भूल से या और तरह से ज़मीन या खड़ी खेती या पैदावारी ज़मीन को नुक़सान करे तो इस अपराध में वह मनुष्य दस रुपये तक जुर्माने के लायक़ होगा और इस ऐक्ट की १० और १० दफ़े के अनुसार जितना रुपया साहिब मेजिस्ट्रेट अपनी प्रसन्नता से निश्चय करे उस टोटे के बदले फ़रयादी को दिया जायगा ॥

१९ इस ऐक्ट की किसी इबारत से उस मनुष्य को जिसकी खड़ी खेती या पैदावारी ज़मीन पशु के घुसजाने से बरबाद हो जावे इस बात की मनाई न होगी कि वह हाकिम अधिकारी के सामने मालिश टोटे की करे परंतु शर्त यह है कि अगर कुछ द्रव्य साहिब मेजिस्ट्रेट के बिचार से टोटे के बदले दिलाया गया हो वह रुपया उस रक़म खिसारे जिसका वह मनुष्य दावा करे या जो हाकिम की आज्ञा से उसके वास्ते तजवीज़ हो मुजरा लिया जायगा ॥

२० जब श्रीयुत महाराजाधिराज गवर्नर जनरल अपनी सभा से मंज़ूर करें तब लोकल गवर्नमेंट को इख़्तियार होगा कि जिस ज़िले वा देश में इस ऐक्ट की शरायत का प्रचलित करना उनके ध्यान में उचित हो उसी ज़िले या देश में इस ऐक्ट को प्रचिलित करेंगे ॥

२१ इस ऐक्ट के अर्थ में जो शब्द एक बचन हैं वे शब्द बहुबचन समझे जायंगे और जो बहुबचन हैं सो एकबचन और शब्द पुल्लिङ्गवाची स्त्रीलिङ्गवाची और शब्द मेजिस्ट्रेट में जाइंट मेजिस्ट्रेट और हर एक अहलकार जो मेजिस्ट्रेटी का अधिकार रखता है शामिल होंगे और उत्तर पश्चिमी देशों में शब्द दरोग़ा पुलिस और अफ़सर पुलिस तहसीलदार और नाइब तहसीलदार जाने जायंगे जिनको अधिकार पुलिस का हासिल हो ॥

२२ यह ऐक्ट सन् १८५० ई० के मई महीने की १ तारीख़ से प्रचलित समझा जायगा ॥

CIRCULAR No. 23.—*From* J. D. SANDFORD, *Esquire, Officiating Assistant Secretary to Government, North Western Provinces, to the Sessions Judge of* .—*Judicial Department.—Dated Allahabad, the* 11*th June* 1859.

I AM directed by the Honorable the Lieutenant Governor to forward, for your information and guidance, copy of a letter, No. 2526, from the Secretary to the Government of India, Foreign Department, addressed to the Secretary to the Government of the Punjab, prohibiting the admission of Missionaries into Jails, and to intimate, that the requisite instructions on this subject will be addressed to all Officers in charge of Jails, by the Inspector General of Prisons, to whom copies of the Government letter, above quoted, have this day been transmitted.

No. 2527.

EXTRACT from the Proceedings of the Government of India, in the Foreign Department, under date the 10*th May* 1859.

No. 2526.—*From* C. BEADON, *Esquire, Secretary to the Government of India, to* R. H. DAVIES, *Esquire, Secretary to the Government of Punjab, &c.—Dated Fort William, the* 10*th May* 1859.

I AM directed by the Governor General in Council to acknowledge the receipt of your letter No. 174, dated the 28th February last, submitting for an expression of the views of the Government of India, a correspondence relative to the admission of Missionaries to Jails.

2.—It appears that in August 1858, Mr. E. H. Stevenson, on behalf of the American Missionaries at Sealkote, enquired of the Deputy Commissioner there (Mr. Prinsep) "whether there was any objection to their visiting the Government Jails for "the purpose of talking with the prisoners and extending among them the knowledge "of Christianity." Mr. Stevenson stated his belief, that in the Central Jail at Lahore, the Gospel had in some instances been conveyed to the prisoners by oral teaching, and by the aid of Christian books and tracts, and that the Bible had recently been placed within the reach of the prisoners at Goojeranwalla. He asked, therefore, whether the Missionaries might have "access at fixed hours to the Sealkote Jail," and expressed their readiness, if permitted, "to embrace so good an opportunity of proclaiming the "Gospel among men who, from their circumstances, might be disposed to listen and "profit by it."

3.—Mr Stevenson also asked, whether the Missionaries could have permission either to raise a chabootra "(or masonry platform) near the Cutcherry, for the purpose of "preaching to the hundreds of idle men who are daily congregated there," or "to "preach within the Government enclosure without a platform."

4.—On the 8th November, Mr. Prinsep forwarded Mr. Stevenson's letter to the Commissioner (Mr. Cust) for orders, stating that he saw no objection in either case to give the permission asked for; but the Commissioner, on the 16th November, promptly refused permission, observing, that the practice of admitting Missionaries to preach to the convicts had been interdicted in the Lahore Central Jail, and in other parts of the Lahore Division.

5.—On the 20th January, however, Mr. Cust submitted the correspondence for the perusal of the Judicial Commissioner, observing, that when employed as a District Officer in the North Western Provinces, he (Mr. Cust) had been in the habit of admitting Missionaries to his Jail, but that after late events, he now thought the practice one which could no longer be permitted.

6.—On the 26th January, the Judicial Commissioner (Mr. Thornton) submitted the papers to the Lieutenant Governor, observing that, though he condemned the compulsory attendance of a Mahomedan, or Hindoo convict at the preaching of a Christian Clergyman, yet he questioned the justice of entirely excluding Missionaries from the Jail, and so preventing the convict from receiving religious advantages which he might be willing to accept. Mr. Thornton recommended that Missionaries should be allowed to visit the Jails and to preach to such, and such only of the convicts as might wish to hear them.

7.—The subject was then referred by the late Lieutenant Governor to the Financial Commissioner (Mr. McLeod) who, on the 21st February, reported, that so far as other gentlemen are allowed to enter the Jails and converse with the prisoners, Missionaries might be allowed to do so, but that, under the existing orders of Government, no special opportunities could be afforded to Missionaries, as this would commit the Officers of Government, in their official character, to a recognition and facilitation of Missionary efforts. Mr. McLeod, however, expressed his opinion, that in declining to afford a Missionary the opportunity of communicating religious instruction to a convict, especially a life-convict, the Government is responsible for withholding the Gospel from him, and took the opportunity of proceeding to discuss the question, whether neutrality in religious matter is a position which a Christian Government can maintain in India or not; and to declare his opinion, that while carefully abstaining from every thing like force, constraint, or inducement by way of reward, with a view to proselytism, the Government should avow and evince a preference for the Christian religion.

8.—In your letter under reply, the late Lieutenant Governor has expressed his opinion, that the exclusion of Missionaries from Jails would not be an act of neutrality, but rather the creation of a disability that Missionaries should be allowed to visit Jails like other persons; that prisoners should not be "exempted" any more than free natives, from the liability to hear the Gospel preached; and that the fear which the Natives entertain is not of Missionary persuasion, but of forcible or fraudulent conversion. His Honor therefore proposes, that Missionaries should be allowed, as they have been occasionally allowed heretofore, free entry to the Jails at certain hours, and the free exercise of their proper functions, subject to any precautionary rules it may be advisable to make.

9.—The Lieutenant Governor would not allow the Missionaries to erect a platform for preaching near the Cutcherry, thinking it sufficient that they are at liberty there or elsewhere to preach to the people.

10.—The Governor General in Council cannot concur in the view taken of this question by Sir J. Lawrence, and by the Judicial and Financial Commissioners of the Punjab.

11.—The chief arguments by which the admission of Missionaries to preach in Jails is supported seem to be, *first*, that as all gentlemen are allowed to visit Jails, Missionaries ought not to be shut out. On this, His Excellency in Council observes, that there is no right on the part of any stranger to visit a Jail; and that, although in practice all gentlemen are let in, this is done, not in order that they may there exercise their calling, whatever that may be, but that they may see for themselves how the Jail is conducted. The Jail too benefits by such public inspection. To the entrance of a Missionary upon this footing, there is no objection, and if it be allowed to him, no injustice will be done to him, as compared with others.

12.—It is next contended, that as all Natives when free, are liable to hear the Gospel preached, it is not fair to exclude them from this advantage because they are in Jail. On this, I am desired to remark, that if a man is free, he hears the preacher only when it pleases him; and that if, being in Jail, he should desire to do so, it would be quite right to admit a preacher to him individually. In the case of a Christian prisoner this would be done, as a matter of course, under such rules as prison discipline may prescribe, and should the case occur of a prisoner who is not a Christian, desiring to hold intercourse with a Christian teacher, his wish should not be refused. But this is a very different thing from giving to Missionaries free access to Jails, and allowing them to preach to whomsoever they choose.

13.—In the opinion of the Governor General in Council, it is idle to talk of prisoners as free agents, even in the matter of listening, and even though (as is conceded in your letter under reply) they are not to be collected together by Guards to hear the preaching, or to have assent to the preacher's doctrine forced upon them; an earnest Missionary, whose zeal would deserve nothing but praise and admiration, if exercised upon men as free as himself, could not be trusted so to measure his actions as to abstain from forcing himself upon those who might desire to escape from him, but who would

be unable to do so; and to watch his proceedings through any officer of competent authority, would be impossible.

14.—His Excellency in Council cannot easily imagine a step more likely to be understood by natives as belying our professions of neutrality in matters of religion, than the sanctioning of the practice which is here recommended. It would be impossible to deny, that in adopting that practice we were turning the machinery of justice and Civil Government to religious purposes. It is now firmly believed that we have made men soldiers, and have ordered them to take cartridges in order to convert them. It will not do to give a handle to the supposition that we sentence them to imprisonment in our Jails for the same purpose, under the pretence of administering justice.

15.—I am therefore directed to state, for the information of the Lieutenant Governor, and for general guidance, that the admission of a Missionary to a Jail for the purpose of preaching is not to be permitted, unless when a prisoner makes a request for the presence of one. I am to add, that the practice advocated in these papers, is not in accordance with the principle of neutrality in matters of religion, which the Government will observe in all its measures, and which it will require its servants to observe in all their official acts.

16.—The Governor General in Council entirely approves of the late Lieutenant Governor's intention to prohibit the Missionaries from erecting a platform for preaching in the Cutcherry premises.

17.—In conclusion, I am desired to annex in the margin, copy of a Despatch on this subject, addressed by the Hon'ble Court of Directors to the Government of Madras, No. 6, dated the 2nd April 1845, and to remark, that the question relating to the policy of Government in matters connected with religion, has been very unnecessarily raised in connection with the subject in hand. and that it is singularly unbecoming in officers in the position of some of the writers who have taken part in the correspondence. to advocate and maintain views on this most important and delicate subject, so directly opposed to the strong and lately reiterated commands of Her Majesty's Government. The Govenor General in Council desires, that the practice originating remarks, and raising and prolonging discussions on subjects of general policy, a practice which has been of late indulged in by subordinate executive officers in some parts of India, and which has been too easily tolerated by the local administration, may be entirely discouraged and epressed.

JUDICIAL DEPARTMENT.

No. 6 of 1845.

Our Governor in Council at Fort St. George.

Whole Judicial Letter, 2nd December (No. 20) 1844.

Question as to the admission of Missionaries into Jails on a Sunday, for the instruction of convicts.

We approve of the instructions issued by you on the occasion here referred to, that it is improper to introduce Missionaries into the Jails, unless when Christian prisoners may be desirous of being visited by them, and we concur in the opinion of your President, that it is not desirable that questions of this nature should, without necessity, be brought into discussion on the public records.

We are, &c.

(Signed) J. SHEPHERD,
AND OTHER DIRECTORS.

LONDON:
The 2nd April 1845.

ORDERED, that a copy of the above letter be sent to the Home Department, for information and communication to the local Governments.

(Signed) R. SIMSON,
Under-Secretary to the Government of India.

No. 992.

COPY forwarded to the Governments of Bengal, Fort St. George, North Western Provinces, Bombay, and the Straits' Settlements, for information and guidance.

By order,

(Signed) R. B. CHAPMAN,
Under-Secretary to the Government of India.

CIRCULAR No. 25.—*From* G. COUPER, *Esquire, Secretary to Government, North Western Provinces, to the Commissioner of .—Judicial Department, (Criminal).—Dated Allahabad, the 5th July* 1859.

IN supersession of Circular Orders, No. 1407, dated 8th August 1854, issued with reference to Clause 10, Section 26, Regulation XX. of 1817, directing that all applications received from Magistrates for the sale of moveable property of criminals who have evaded process, be submitted in one quarterly return for the sanction of Government, I am directed to intimate, that the Lieutenant Governor is pleased to authorize you for the future to sanction all sales of such property on inventory received from the Magistrate, and after the expiry of the full term of six calendar months from the date of the proclamation. This sanction will not of course extend to sales for resistance of process.

2.—His Honor considers that it will be sufficient, if a return in the form annexed, shewing the number of cases and the net proceeds of such sales credited to Government, is submitted quarterly for his information.

District.	Thannah.	Name of Offender.	Net proceeds of Sale credited.	REMARKS.

CIRCULAR No. 20.—*From* G. COUPER, *Esquire, Secretary to Government, North Western Provinces, to Commissioner of Division.—Judicial Department.—Dated Allahabad, the 27th July* 1859.

I AM directed by the Hon'ble the Lieutenant Governor to forward for distribution to the Magistrates in your Division, the accompanying copy of a Report, dated 28th March 1857, on Cattle-stealing, the work of Mr. Strachey, Magistrate of Moradabad, and to request you to inform those Officers, that they are expected to give their particular and earnest attention to the evil of which the report treats, and to use their existing establishment as best they may for its suppression, pending the introduction, at no distant period, it is hoped, of the comprehensive measure which Mr. Strachey has recommended.

From J. STRACHEY, *Esquire, late Magistrate and Collector of Moradabad, to* R. ALEXANDER, *Esquire, Commissioner of Rohilcund.—Naples.—Dated the 28th March* 1857.

THE Orders of Government, No. 1677 A., dated 6th August 1855, authorized me to entertain a small special establishment for the purpose of carrying out experimental measures for the repression of the crime of cattle-stealing in the district of Moradabad. I have now to report to you regarding the plans that have been adopted, and the results that have been attained.

2.—In Moradabad and the neighbouring districts, which border upon the Ganges and the Jumna, cattle-stealing has been, from time immemorial, one of the most

prevalent offences. It constitutes the normal occupation of a large community, and this fact, added to the physical difficulties of the country in which the offenders live, has rendered all attempts to repress the crime more or less unsuccessful. My own experience has been entirely confined to Moradabad, but I believe that the account, which I am about to give, will be found pretty generally applicable to the neighbouring similar districts of Rohilcund and the Doab. Similar circumstances have produced similar results.

3.—There are two tracts of country which, in Moradabad, are the head quarters of the cattle-lifters, the Khadir of the Ganges, and the pasture lands which skirt the Forest and Terai, eight or ten miles below the first ranges of the Himalaya.

4.—Of these tracts the Khadir of the Ganges, in the pergunnah of Hussunpoor, is the most important. On the left bank of the river this strip of low land has here an average breadth of four or five miles. The course of the main Ganges frequently changes, and branches issuing from the principal river intersect the Khadir, and cover it with a net-work of streams. I believe that, on the other side of the river, the character of the country is very similar.

5.—Through a large portion of this tract, the operations of agriculture must always be precarious. During the rainy season the floods are usually so heavy, and the soil is so saturated with water, that cultivation becomes to a great extent impracticable or unprofitable. The Rubbee is the only harvest of importance.

6.—Broad tracts of land, covered with grass and low jungle, stretch along the streams. These afford good pasturage at seasons, when elsewhere all vegetation is burned up. It will be understood that in a country so circumstanced, the breeding and pasturing of cattle is often a more profitable occupation than the cultivation of the soil. All classes of the inhabitants possess numerous herds of cattle, and during the dry season, the people of other parts of the district regularly send their cattle in large numbers to the Khadir, for the sake of the pasture to be found there.

7.—The largest section of the population of the Khadir is Goojur. The Mewatees are also numerous, and Jâts and Khagees come next in importance. Of all these, and especially of the Goojurs, cattle-lifting is the normal and the most profitable occupation.

8.—Probably at least seventy-five out of every hundred able-bodied Goojurs in this part of the country are thieves. This is true not only of the poorer and least influential members of the class. The zemindars, who possess the largest share of wealth, and whose position gives them the greatest influence, are almost all receivers of stolen cattle, and the inciters of the thefts that are committed. It seldom happens that any legal evidence can be obtained against them, but it is matter of public notoriety, about which no sort of doubt exists, that the fact is as I have stated it. There is nothing uncharitable in the assumption in any case, in the absence of direct evidence to the contrary, that every Goojur is a thief.

9.—Every thing combines to foster in this tract the offence of cattle-stealing. The people are thieves, who have hardly any consciousness of criminality, when they follow their herditary occupation, and the physical character of the country in which they live is such, that the repression of these predatory habits becomes a task of extreme difficulty. It is no easy matter, either for private prosecutors or Police, to follow up the tracks of stolen cattle through these wild regions. To move through them is difficult at all times, and to do so becomes often almost impossible. Rivers and swamps have to be crossed, tracts of jungle to be traversed, and a most unhealthy climate to be encountered, while the whole population is united in a common fellowship of crime, both by habit and by interest. And even if it be known to what part of the country the stolen cattle have been conveyed, it is most difficult to recognize them among the great herds that graze over almost every portion of the Khadir.

10.—A considerable portion of the thefts of cattle that are committed take place in the Khadir itself. The herds that are sent from other parts of the district offer

an easy prey. The Goojurs respect property belonging to people of their own class who live in the Khadir, and the maxim of "honor among thieves" is here almost always applicable. But their depredations are by no means confined to the parts of the country near their own homes. Hardly any portion of Moradabad or of the neighbouring districts is safe from the Goojurs of the Ganges Khadir.

11.—There is no doubt that a large proportion of the cattle thefts throughout the district, are either directly committed or are suggested, and incited by them. A regular system of correspondence seems to exist between the Goojurs of different parts of the country. The cattle-lifters seldom keep the cattle that they have stolen any where near their own homes, or near the places where the theft was committed; they send them off to their friends in another Thanna or across the river into another district, receiveing other cattle in exchange. It is said that the Goojurs of the Khadir of the Ganges are in frequent communication with those on the banks of the Jumna, and there is no doubt, that people who live at distances of many days' journey from each other, often carry on in this way extensive dealings.

12.—These operations are managed so systematically, and so expeditiously, and there is so little concert between the police of different jurisdictions, that detection is extremely difficult, and in the great majority of cases, the offenders run little risk of apprehension.

13.—In the actual commission of the thefts, Mewatees and others are very frequently concerned, but the receivers of stolen cattle in the Khadir are almost always Goojurs. Every body who wishes to dispose of cattle that have come into his possession by any unfair means, knows that he can always find an immediate and a safe market in the Ganges Khadir.

14.—Many of the cattle stolen by Mewatees and others, are made over at once to the butchers of the towns, but the greater number are sent off to the Khadir as soon as they are stolen. Goojur thieves will of course never sell cattle to butchers. Thus the greater part of the cattle may be supposed to be alive for a considerable time after they are stolen, and under a proper system, this fact would much facilitate the work of repressing the crime.

15.—There seems to be nothing peculiar in the manner in which the actual thefts are committed. The peculiarity of these cases arises from the facts that I have stated, that the whole population of the Khadir consists either of cattle-lifters or of receivers of stolen cattle, and that people in all parts of the country know that the Goojurs are always ready either to purchase stolen cattle themselves, or to negotiate their transfer to other parties.

16.—The Forest and Terai is next in importance to the Khadir of the Ganges, as a locality for cattle-stealing. The extensive tracts of pasture land attracts large herds of cattle, both from the hills and from the plains. The Puharees are the chief sufferers, but it is not easy to learn the actual amount of their losses.

17.—They seldom prosecute in the courts of the plains, and they often give no information even to the hill Authorities. There are a good many Goojurs in the villages near the edge of the Forest, and a large proportion of the cattle stolen in this part of the district probably pass through their hands. They send on the cattle, in the way I have already described, to their Goojur friends in the Khadir, receiving in return either money or cattle stolen in some distant part of the country.

18.—Besides the Khadir and Forest, there is another part of the district, where a good deal of cattle-stealing goes on. A belt of low dhâk jkungle, with little cultivated land, stretches almost across the district, from Chujlait towards Chundoulee, through the Thannah divisions of Amroha, Asmolee, and Sumbhul. This belt is generally three or four miles broad, and although the extent of pasture land is not sufficiently great to induce people to send their cattle from any great distance, the neighbouring villages often possess large herds, which find here good grazing ground. A large proportion of the thefts committed in this part of the country are attributable to the Mewatees, and

many of the cattle stolen are made over to the butchers of the towns, and immediately slaughtered.

19.—The rainy season is the time when the greatest number of thefts are committed. The Goojurs and the other cattle-lifters of the Khadir have then little occupation in their fields, and have plenty of time to devote to the more profitable business of plundering their neighbours. At this season too, it is much more difficult to follow up the traces of the stolen cattle, and it becomes almost impossible, except to people who live permanently in the Khadir, to move about quickly among the rivers, and swamps, and thick jungle.

20.—The Statement No. 1,* attached to this letter, shows the number of cases of cattle-stealing that have occurred during the last five years in the Moradabad district, with such other particulars connected with the subject as I have been able to collect. The Statement No. 2,* gives similar particulars for the neighbouring districts. The figures contained in these tables will shew the magnitude of the evil, and how powerless to arrest it, have been the operations of our Courts.

21.—In the statement for Moradabad, the results reported for the year 1852, have been inserted for the sake of uniformity, but they are not to be depended on. These figures would seem to shew, that in 1853 there was a vast increase of crimes, this was not really the case, and it is notorious that before Mr. Roberts turned his attention to the matter, the greater number of cattle-thefts were not reported by the Police at all, or were reported as cases of straying. It is not necessary that more should be now said on this point, but it is right that I should notice it, lest conclusions should be drawn unfavorable to the administration of my predecessor, an admirable Officer, who needs no praise from me.

22.—I must now give some account of what has been done towards checking this crime in Moradabad In 1855 I reported to you, that the number of thefts was still increasing. The following extract from my letter, No. 33, dated 12th May 1855, gives a summary of the facts of the case as they were exhibited by the Annual Statements for 1854. [This Extract is lost, as well as the original letter from which it was made.] In consequence of this report, I was authorized by the Government to entertain a special establishment for six months, at the rate of Rs. 97 per mensem, for the purpose of endeavoring to check the crime. Imam-ood-deen, Kotwal of Moradabad, was to superintend the operations, and he was invested with the powers of Thannadar throughout the district. These orders were passed by the Government on the 6th of August 1855, but it was not until near the end of the year that much was attempted, for Imam-ood-deen could not be spared from his duties as Kotwal, in consequence of the possibility of disturbances occurring during the Mohurrum.

23.—Although, as I shall shew presently, a very considerable share of success has been attained, the experiment was carried on under most unfavorable circumstances. Mr. Bensley Thornhill's removal from the district in Februry 1856, made it impossible for me to remain myself in the pergnnnah of Hussunpoor, to superintend operations, as I had hoped to do, while, at the same time, I lost a most efficient and zealous coadjutor in the work, who had made himself well acquainted with the whole subject. Two months later, I was myself compelled by sickness to go to the Hills, and consequently I have neither been able to carry out my own schemes, nor have I had the opportunities which I had hoped for, of making myself still better acquainted with the system under which the operations of the cattle-lifters are carried on.

24.—The practical results that have been actually gained, are mainly due to Mr. Johnston and Mr. Cockerell, who, after I left Moradabad, exerted themselves to the utmost for the repression of this crime.

25.—The mere fact of the appointment of Imam-ood-deen, who was known to be the best detective Police Officer in the district, with a special establishment, had

* These Statements are lost.

doubtless a great effect in frightening the Goojurs, and in making them more cautious in their operations.

26.—I took advantage of the remodelling of the Police establishment of the district to establish a number of outposts in the Khadir, in all the places where the cattle-lifters were the most notoriously numerous and bold. These outposts were made over to first class jemadars, who, as well as the burkundazes subordinate to them, were chosen from the most efficient men at my disposal. There are now eight* Police Stations in the Khadir, of which four have been newly established. This has been a very useful measure. There are now posts commanding all the principal ghats across the Ganges, at distances from each other not exceeding three or four miles, and if the Police do their duty, it is easy for them to learn all that is going on.

27.—I also made many changes in the Thanna establishments of the pergunnah of Hussunpoor, and chose men for the principal posts, who I thought were likely to exert themselves for the repression of cattle-stealing. The main credit, however, of all that has been done, is due to Imam-ood-deen. He has exerted himself to the utmost, and has continued fully to merit the high opinion which I and all his superiors have long held of him.

28.—Imam-ood-deen was relieved of his ordinary duties as Kotwal of Moradabad, in October 1855, the current business in the city being conducted by the Naib-Kotwal. A Mohurrir and Duffadar were appointed to assist Imam-ood-deen in his enquiries, and burkundauzes chosen by himself were given him from the regular Police force. If, on the first report of a case of cattle-stealing, the ordinary Police succeeded in apprehending the offenders, Imam-ood-deen did not ordinarily interfere; but all cases were made over to him in which the original Police investigation had failed, or in which for any reason it seemed likely to fail. All the Thannadars understood, that in all that concerned the offence of cattle-stealing, they were to look upon Imam-ood-deen as their superior Officer, and that all their proceedings were to be regulated and superintended by him. Unity of management was the first essential of success.

29.—The influence is very great which the more important Goojurs of the Khadir exercise over the community of cattle-lifters. It is notorious that they can always, to a great extent, stop these thefts if they chose, and that they can, in almost every case of cattle-stealing, ascertain who are the real offenders, and what has become of the cattle. In a great number of cases they derive a direct profit in the shape of a share of the stolen property; but as they are always careful to keep themselves in the back ground, as they take no part in the actual thefts, and keep none of the stolen cattle in their own possession, to obtain legal evidence against them is, under our existing system, next to impossible. It was clear that any success was out of the question, unless these people would exert their influence to assist us. In dealing with a class of hereditary thieves, who look upon plunder as a perfectly legitimate and a most profitable occupation, fear is the sole influence which can be brought to bear with any immediate useful effect.

30.—The laws regarding dishonest livelihood can with difficulty be applied to these Goojurs. They are not vagrants, or people with no other means of subsistence, but often holders of considerable estates. The zemindar is just as bad as the common cultivator. Although a Magistrate has now no sufficient legal means of dealing with such cases, and although he cannot hope to dispose of them in a manner which shall give complete security for the future, he can still, as the Chief Executive Officer of the district, do a great deal, without any infringement of the law, to make their position a very uncomfortable one. The danger of injustice to individuals by the exercise of a

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* 1.—Alinuggur.
* 2.—Biha.
* 3.—Jeora.
* 4.—Futtehpoor.
5.—Sherpoor.
6.—Tigree.
7.—Rehra.
8.—Sirsa.
The new Stations are marked thus.*

somewhat arbitrary authority is, in such cases as this, very small, if the Magistrate be fit for his work. If he is unable with all the great means at his disposal, to ascertain the true character of the land-holders and the Police of his district, through whom he has to act, it is entirely his own fault. Believing this, feeling no fear that I should be guilty of injustice, although I might fail to obtain in every case all the evidence which the technicality of our law requires; professing, moreover, not the slightest sympathy with men, of whose criminality I was certain, I had no scruples in my dealings with these Goojurs. Every man who was a notorious receiver of stolen cattle was summoned by me; if it was possible, he was imprisoned or called on to give heavy security, and if no legal evidence could be obtained against him, I did my best to impress upon him, and prove to him that he would lead a very uncomfortable life, as long as he continued to exercise his predatory propensities. Consequently, much was done which cannot be illustrated by tabular statements.

31.—Several offenders, against whom complete proof existed, and whose conviction would have been certain, were released on condition that they would turn approvers, and thus much useful information was gained. Imam-ood-deen was in communication with many persons, who were well acquainted with all the proceedings of the cattle-lifters, and who were in reality thieves themselves.

32.—I now proceed to describe the actual results that have been arrived at. In my Police Report for 1855, I gave my reasons for believing, that although in that year there was an apparent increase in cattle-stealing, the crime had in reality diminished. Greater care was taken that all cases should be reported, and fewer cases of theft were shewn as cases of straying. The numerical results for 1855, as compared with previous years, will be seen in Statement No. 1.

33.—As Imam-ood-deen only began his operations at the end of 1855, the results were hardly to be seen in that year.

34.—The following figures will shew the improvement that took place in 1856, and the whole of this is fairly to be attributed to the new measures.

Year.	No. of cases of Cattle-stealing.	Head of Cattle stolen.	Head of Cattle recovered.	Estimated value of Cattle stolen.	Estimated value of Cattle recovered.
				Rs.	Rs.
1855,	499	898	326	10,915	3,065
1856,	296	522	209	5,623	2,365

35. The following table shews the returns of cases of straying for the two years, and this, too, is satisfactory:—

Year.	Head of Cattle reported to have strayed.	Head of strayed cattle recovered.	Estimated value of strayed cattle.	Estimated value of cattle recovered.	
			Rs.	Rs.	
1855,	2,694	1,209	20,093	9,380	
1856,	2,732	1,617	20,819	12,086	

36.—The number of apprehensions, convictions, and acquittals, remained nearly the same as in the previous year, but as the number of cases was so much smaller, this is really a very satisfactory result.

Year.	Apprehended.	Convicted.	Acquitted.	
1855,	331	106	171	
1856,	309	106	167	

37.—The total (No. 3) annexed* to this letter, shews the caste of all the persons convicted of cattle-stealing in the Moradabad district during the last five years. It will be observed that the number of Goojurs convicted, has always been small, and these figures may at first sight seem hardly consistent with much that I have stated in this report. But in reality they only show how powerless our Courts have been. Few Goojurs are caught, for the whole community is so united, and the Goojur zemindars possess so much influence in the Khadir, that the ordinary Police can do little against them. The Thannadar often fears, that if he offends them beyond a certain point, they will punish him by causing, as they can easily do, an unusual number of thefts within the limits of his jurisdiction, and both Police and private prosecutors are not unfrequently deterred by the fear of actual violence from following the track of stolen cattle among the herds of the Goojurs.

38.—To distinguish between cases of theft and of straying, is necessarily so difficult, that the distinction must, to a great extent, be an arbitrary one, whatever care be taken. A considerable number of strayed cattle are every year brought in to the different Thannas. We may fairly assume, that most of these are included in the cases reported by the Police, under the head of "strayed," and we shall arrive at a better approximation to the actual number of cattle that are annually stolen, or unfairly made away with, if we take this element into calculation. In 1855 the number of strayed cattle being 2,694, and the number recovered being 1,209, we may add to the latter number, the cattle brought into the Thannas. These were 411 head; there thus remained unaccounted for, of the cattle reported to have strayed in 1855, 1,074 head, and there can be no doubt that a large proportion of these were really stolen. The number of lawaris cattle brought to the Thannas in 1856 was 504; if we add this to 1,617, the number of strayed cattle, reported to have been recovered, there remain only 611 head unaccounted for, a great improvement on the previous year.

39.—That this great diminution in the number of thefts is a real one, I can affirm with confidence. There is always danger on such occasions as this, that the Police will neglect to report all the cases that occur, and no one can know better than I do what false ideas are sometimes conveyed by the figures which profess to shew the state of Indian districts. In the present instance so many precautions were taken, that I feel sure that no such suppression of the truth has taken place. I believe that cases of cattle-stealing were never so well reported by the Police before, and that the actual diminution of crime has been greater than the figures shew. The results arrived at, will, I hope, be considered satisfactory. These operations were, as I have before mentioned, carried out under many disadvantages, and a much larger measure of success would have been possible under more favorable circumstances.

* This letter is lost.

40.—But it is necessary to notice that, in one important respect, these results may not be in reality all that at first sight they seem to be. There has been a great decrease of cattle-stealing in Moradabad, but all that has happened may have been, that the cattle-lifters have carried on their depredations elsewhere. I have already described how the Goojurs of the Ganges Khadir are constantly concerned in thefts, that are committed at a great distance from their homes. It is as easy for them to steal cattle in Meerut, as in Moradabad, and I fear that when they felt an unusual pressure in the latter district, they, to a great extent, transferred the scene of their operations to the other side of the Ganges. I regret that I cannot now investigate this point further, for the statements which were furnished to me from other districts were not sufficiently complete when I left India, to enable me to come to any positive conclusions on the subject.*

41.—However this may be, the results that have been gained in Moradabad will not be the less valuable. It has been at least shewn, that it is not difficult with very small means to produce a considerable effect on the proceedings of the cattle-lifters, and what has been done in this district, may be done as easily in others.

42.—But it is I think clear, that no complete and permanent suppression of this crime can be expected to result from any efforts of individual Magistrates. The Police of the different Districts have not yet learned to act in concert. Nothing but a vigorous concentration of authority can break up a system like that of the Goojur cattle-lifters, which extends its ramifications through so many districts, and over so great an extent of country. I think that an European Officer ought to be appointed, with a Special Detective establishment, with jurisdiction in all the districts of the North Western Provinces, where the offence of cattle-stealing is prevalent. I am not inclined to think that any new legislation would be at present necessary, although it would probably be ultimately found to be desirable. An active and energetic Officer, invested with the powers of Magistrate, would, I believe, be able, in spite of the evident imperfections of the existing law to put a stop to systematic cattle-lifting in no great space of time and at no considerable cost. This is the sole measure which, in my opinion, can afford a complete remedy for the evil. After more experience had been gained, it would be seen whether any alteration in the law was really essential. Authority and responsibility must be concentrated in the hands of one man. The greater this authority and responsibility can be made, the better will be the chances of success. If such unity of management as that which I have advised, be at present impracticable, it may still be possible to carry out the same principle in a modified form. If a single Superintendent for the North Western Provinces cannot be appointed, something will be gained if in each district measures be carried out under the superintendence of one Officer. The most efficient Native Police Officer in each district where this offence prevails, should superintend the investigation of cases, and follow up offenders, as Imam-ood-deen has done in Moradabad.

43.—A number of Thaunadars, acting with no proper concert, and probably often jealous of each other's reputation, will never suppress crimes carried on so systematically and extensively as this of cattle-stealing. The criminals and the cattle must be traced from thanna to thanna, and from district to district, and if this is to be done efficiently, there must be no division of authority.

44.—Much has often been said of the so-called *khoj*-system, which is in force, in the Trans-Jumna and other districts, under which each village is held, to a certain extent, reponsible for the theft, unless it can carry on the track of the stolen cattle. I have myself never seen any thing of this system. The trackers of cattle, who are said to exhibit such extraordinary sagacity in some districts of the North Western Provinces

* The Statements which will be appended to this letter, will be prepared in a more complete form, by Mr Saunders, but I shall not myself be able to refer to them. All these are lost.

and of the Punjaub, are not found in this part of the country. It seems to me to be quite useless to discuss the propriety of introducing *de novo* any such system into a country where it does not already exist. Such expedients as this are evidently nothing better than barbarous and very imperfect substitutes for an efficient system of Police, and although they may be tolerated for a time as the means of checking crime, when no better means exist, it is clear that nothing else can be said in their favor. The following extract from Mr. Greathed's Police Report for 1855, so entirely expresses my own opinion on this subject, that I cannot do better than quote it here.

"The crime can never be more than slightly repressed by procuring the restoration "of the stolen cattle, through the medium of the Zemindars, to whose villages "the tracks are supposed to have been carried. To attack it effectually, the criminals "must be reached, and made to feel that cattle-stealing is not a safe trade. This re- "mains to be effected; tracking as a means to the discovery of the cattle, and thieves "should be encouraged * * * But if the tracking leads to no actual "discovery, something else should be tried, the facts of the tracking remaining on re- "cord for future notice. It is highly injudicious that the enquiry should be diverted "from the pursuit of the criminals to the recriminations of the Zemindars, through "whose villages the tracks passed. Merely to fine the Zemindars with whom the tracks "were left, would be an unsatisfactory termination to a case, and it would be illegal "on the mere evidence of tracks to charge them as receivers or accessaries."

45.—The sum sanctioned by Government for these operations was Rs. 95 per mensem, for six months. The whole amount was thus Rs. 570. I did not consider it necessary to adhere to all the details of my original proposition in determining what expenditure should be incurred. I thought it sufficient not to exceed the total amount which the Government had sanctioned.

The following is a summary of the actual expenditure:—

Paid to Informers, in small presents, diet, &c.,				Rs.	62	2 4
" to Imam-ood-deen, horse allowance, from 1st October 1855, to 31st October 1856, at Rs. 20,	260	0	0			
" to Naib Kotwal, extra allowance for same period, at Rs. 10, ...	130	0	0			
Mohurrir, for 6½ months, at Rs. 15, ...	97	8	0			
" to Cheda Singh, Duffadar, extra allowance for 6½ months, at Rs. 2,	13	0	0		500	8 0
Total, Rs. ...					562	10 4

The total expenditure has thus fallen short of the amount sanctioned by Government, by Rs. 7-5-8.

46.—In conclusion, I wish to repeat my high sense of the services which in this as in all other matters entrusted to him, have been rendered by Imam-ood-deen, Kotwal of Moradabad. Any success that has been gained is entirely due to his exertions.

47.—I must not omit to mention, that while engaged in these operations, Imam-ood-deen, was also several times employed with much success in the investigation of other cases of theft, in which property to a large amount had been stolen. He has indeed to some extent acted as a sort of Superintendent of Police. For such an Office, the establishment of which in each district I have long advocated, Imam-ood-deen would be in all respects well fitted.*

48.—I regret that I was unable to complete this report before I left India. It has been written under circumstances which will, I hope, serve as my apology for many manifest imperfections.

* NOTE, 1859.—Imam-ood-deen has well maintained his high character since this report was written. His loyalty has been conspicuous, and the services that he has rendered, have been valuable.

CIRCULAR No. 31.—*From* G. COUPER, *Esquire, Secretary to Government, North Western Provinces, to the Commissioner of* .—*Judicial Department.—Dated Allahabad, the 30th July* 1859.

CLAUSE 6, Section 20, of Regulation XX. of 1817, provides that, whenever a person of bad character may be released from Jail, and the Magistrate may be of opinion, with reference to his character, that his future conduct should be watched; such individual shall be sent to the village to which he may belong, and released in the presence of its head-men.

2nd.—It appears, that the above provisions has been defeated by the practice of releasing *all* prisoners confined in the Central Jails in these Provinces, at the termination of their sentence, at the gates of the Jail; no matter how heinous or dangerous the cirmo of which they may have been convicted.

3rd.—The Lieutenant Governor therefore directs, that in future, every Officer, on sending a prisoner to Jail, will state in his warrant, whether the crime or character of the prisoner is such as to render it imperative for the interests of society, that he should be made over to local surveillance, at the expiration of his sentence; and Officers will be expected to exercise a wise discretion in these recommendations.

4th.—Such prisoners will be sent, *en masse*, on the first day of the month preceding that in which their sentence would expire, to their respective Zillahs, while less heinous offenders will be released, as at present, at the termination of their sentence, at the Central Jail.

5th.—In cases where a prisoner, whom the Committing Officer may have recommended to be made over to local surveillance, shall appear to the Superintendent of the Central Jail to have become a reformed character during the period of his incarceration, that Officer shall have authority to release him at the Jail, sending at the same time, a report of the circumstance for the information of the Magistrate of the Zillah, in which the prisoner resides.

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To Sudder Board, Sudder Dewanny Adawlut, Chief Engineer, Commissioners, Judges, &c. Requesting that, in future, instead of forwarding applications for pensions direct to Government, they will send them under flying seal to the Civil Auditor, who will submit a memorandum with each application for information of Government,	29th April 1859.	*ib.*
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To Commissioners of Divisions. Deciding that Deputy Collectors invested with Magisterial powers, are not barred under Section 164 of Act X. 1859, from exercising any jurisdiction under that Act,	14th Novr. 1859.	39

ORDERS OF THE GOVERNMENT,

NORTH WESTERN PROVINCES,

FOR 1859.

REVENUE DEPARTMENT.

CIRCULAR No. 52 B. OF 1859.—*From* R. B. CHAPMAN, *Esquire, Officiating Under-Secretary to the Government of India, to* W. MUIR, *Esquire, Secretary to the Government of the North Western Provinces.—Foreign Department.—Dated Fort William, the 7th January* 1859.

I am directed by the Honorable the President in Council to transmit to you, for such further orders as may be necessary, the enclosed extract from para. 9 of a letter written under this date, No. 52, to the Secretary to the Board of Revenue, Lower Provinces.

Extract from a letter from the Officiating Secretary to the Government of India, to the Secretary to the Board of Revenue.—Foreign Department.—Dated the 7th January 1859.—*No.* 52.

The President in Council desires me to observe, that it is incumbent on every controlling officer vacating his Office during the year to record a memorandum of his opinion of the official character and deserts of his subordinates up to the period of his quitting Office, and his successor in preparing the annual report should state whether, as far as he has had an opportunity of judging, he agrees with the opinion of his predecessor or not.

No. 138 of 1859.—*From* C. BEADON, *Esquire, Secretary to the Government of India, to* W. MUIR, *Esquire, Secretary to the Government of the North Western Provinces.—Home Department.—Dated Fort William, the* 18*th January* 1859.

I am directed to transmit for information and guidance, the subjoined extract* from a communication addressed from the Foreign Department to the Board of Revenue, in Bengal, requiring controlling Officers to record their opinion of the official character and deserts of their subordinates.

* Para. 9 of letter No. 52, dated the 7th instant.

CIRCULAR No. 3 OF 1859.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to Sudder Board, Sudder Dewanny Adawlut, Chief Engineers, Commissioners, Judges, &c.—Dated Allahabad, the* 29*th April* 1859.

I am desired to request that, you will in future, instead of forwarding applications for pensions, submitted through your Office, direct to Government, send them under flying seal to the Civil Auditor, who will submit a Memorandum with each application for the information of Government.

CIRCULAR No. 5.—*To All Commissioners.—Dated Allahabad, the 13th July* 1859.

With a Circular Order of this Government No. 299, dated 10th April, a resolution of the same date, laying down rules for the disposal of confiscated property, was circulated for the guidance of the several District Officers in these Provinces, and they were required to submit statements, according to a prescribed form, of all property, both *landed* and *personal*, that had been confiscated within their respective circles.

2*nd*.—The declared object of this requisition was to enable the Government to judge what portion of the confiscated estates should be reserved for assignment as rewards to loyal subjects, who had rendered eminent service to the State during the rebellion; and what portion should be otherwise disposed of.

3*rd*.—The District Officers, therefore, while they were warned against committing the Government to the final disposal of the proprietary rights in any estates, were told that recommendations might be freely offered, and in the 4th para. of the resolution, it was intimated that the return of villages confiscated, or likely to be confiscated, under Act XXV. of 1857, should be sent in "*with the claims* for eminent service, "which might appropriately be met from this source."

4*th*.—But on the 4th March 1858, the Sudder Board of Revenue had called for a statement in another form, prescribed by themselves, but approved by the Government, of confiscated *landed* properties, with the intention, it is presumed, of eventually laying it before the Government with their own advice, for orders as to the disposal of the several properties in question.

5*th*.—These separate requisitions from different Authorities for the same information, in different forms, have unfortunately led to some misunderstanding and confusion. Some of the District Officers, supposing the orders of the Sudder Board of Revenue to have been superseded by the instructions of the Government, have failed to submit the statements called for by the former; while the statements submitted to the Governor direct, (so far as they have been yet received) do not enable it to come to any final conclusions as to the disposal of the confiscated estates.

6*th*.—The reasons are various:—

1. The statements sent, in pursuance of the orders of Government, do not shew the authority by which sentence of confiscation was passed, or the date of such sentence; and it is consequently uncertain in every case, whether the forfeiture has become final, or when it will become so.

2. The statements comprehend both landed and personal property, including houses, &c., of convicted Rebels. In disposing of the former, through the Sudder Board of Revenue, and of the latter [with which the Sudder Board of Revenue have no concern] through the Commissioner, in the absence of any number or other sign connecting the entries in the Government statements, with those in the statements sent to the Board, there is a risk of conflicting orders being passed as to the landed and the personal properties of the same parties.

3. In some of the statements submitted to the Government direct, many estates have been entered which have been only attached, and it has been left to the Government to declare, whether they shall be confiscated or not,—an act which the Government is neither authorized by the law, nor competent of its own knowledge, to do.

4. But the great obstacle to finality of decision on these statements is, that they are unaccompanied by any specification of the claims to reward for good service, which may be appropriately met from the confiscated estates [p. 4 of Resolution, dated 10th April 1858;] and that many of them do not give any recommendation on this head. Moreover, numerous rewards, in the form of proprietary right in confiscated lands, have been adjudged by the Government since the preparation of the statements, and the consequence is that, however complete they may have been at the date of their submission, they cannot be depended upon now.

7*th*.—In making the foregoing remarks, the Lieutenant Governor has not the smallest intention of imputing the defects observable in these returns to the District

Officers. The particulars noted under the first head found no place in the form which the Government prescribed, while the inclusion of personal property could not have been avoided without leaving the form incomplete. "Attached" estates again may have been inserted in the statement as estates "likely to be confiscated;" and obviously the column of "reserved for reward" could not be filled up to any practical purpose, until all claims to reward had been finally disposed of by the Government.

8*th*.—But wherever the fault may lie, and however much the delay and the additional labor consequent upon it, are to be regretted, there is no escape from the undoubted fact, that, in the present condition of these statements, it is simply impossible for the Government to issue conclusive orders as to the disposal of a single confiscated estate, with any assurance that the act may not need to be revoked. The absence alone of information as to the extent of confiscated properties required to meet rewards, which have been actually adjudged, is an insuperable obstacle to the issue of such orders; for this is the only source from which such demands can be satisfied, and assignments of land must be made in satisfaction of every reward promised, before any estate can be prudently sold or otherwise disposed of.

9*th*.—It is not easy to find a remedy for this state of things, without imposing additional labor on the Government Officers, which His Honor is very unwilling to do; still it is indispensable, that the Government should have before it a complete and correct statement of all confiscated landed properties in such a form, as shall leave no doubt in regard to the finality of the forfeiture, together with a detailed statement of the rewards in land which have been granted by Government in each Division, and of the particular lands which it is proposed to assign to each person rewarded in satisfaction of the promise of the Government. With this information, as to the whole extent of confiscated available property on the one hand, and the whole extent that has been, so to speak, hypothecated in rewards on the other, the Government will be in a position to deal finally and satisfactorily with the question.

10*th*.—The necessity can be met perhaps with the least trouble in the following manner:—

The form of statement, prescribed by the Sudder Board of Revenue, has a column for No., which facilitates reference; a column to shew the authority, by which sentence of confiscation was passed; and another to exhibit the date of sentence. The statement too is of course intended, as that of the Government is, to contain *every* confiscated landed property, whether malgoozaree or maafee, in each District. Some of these statements have been already sent to the Board, and if those still due are supplied, the Government will be placed in possession—assuming always that the statements are correct and complete of full and detailed information regarding the extent of confiscated landed property at its disposal, the name, locality, and jumma, of the several estates composing it, the date of confiscation, and the authority by whom forfeiture was adjudged in each case.

11*th*.—There will be required, in addition, a statement of proposed assignments of land in satisfaction of rewards which have been awarded by the Government, and this statement must be unavoidably prepared *de novo;* and in such a manner as to connect the several entries with the entries in the statement furnished to the Sudder Board of Revenue.

12*th*.—Annexed to this letter is the form of a statement, marked A., which, if carefully and correctly prepared, will remove the difficulty which now exists of dealing finally with forfeited landed properties.

13*th*.—This statement will be most conveniently and appropriately prepared in your Office for all the Districts of your Division. You are in possession, in a connected form, of all the orders that have been issued by the Government, from time to time, granting rewards, for whatever reason; and the first four columns of the required statement can be filled up in your Office, with little or no trouble, though some care and circumspection on your part will be needed to ensure the inclusion therein of every individual of your Division, whether belonging to the service of Government or otherwise, to whom a

reward in land has been granted by the Government. To enable you to fill in the several entries of the 5th column, you will call upon each Collector for the statement (in original) of confiscated Mehals, which he will have prepared for submission to the Sudder Board of Revenue, in obedience to their Circular Order, dated 4th March 1858; or if in any instance, a Collector has failed to prepare the statement in question, you will call upon him to draw out and submit it forthwith.

14*th*.—At the foot of the Statement A., will appear the abstract, in the form marked B., for the compilation of which no instructions seem to be required. A few fictitious entries have been made in the Statement A., in order to show how it is to be prepared, and what particulars it is intended to exhibit.

15*th*.—You will observe that by the foregoing instructions, the duty of selecting the properties to be assigned in satisfaction of the reward promised by Government to each individual, is entrusted to you, and a few words of caution on the subject will not be misplaced.

16*th*.—The Governor General, while administering the Government of these Provinces, practically established it, as a general rule, that land assigned as reward for service, should continue to be charged with revenue, and that the jumma of the past settlement should be taken as the basis of valuation. But the jumma, it is to be observed, is not by any means a fair criterion of net income, or profit, after paying expenses of management. The settlements of the Districts in these Provinces have been made since a time, varying from thirty to seventeen years, and in this interval there have been great changes in the value or out-turn of landed properties, which at the time of settlement were fairly assessed. In some Districts agricultural industry had made the most of the land, in others there were great capabilities of agricultural improvement; in others again, from various causes, such as over-cropping, and consequent exhaustion of the soil, percolation from the canals, fluvial action, and so forth, there may have been extensive deterioration. In short, the jumma of the last settlement, however fairly it may have represented the value of an estate at the time, cannot be taken as a certain indication of its value now. Not unnaturally those to whom rewards have been granted, desire to secure the most profitable estates, and to this, it is to be apprehended, is due the delay which has taken place in giving effect to the Government orders.

17*th*.—This, then, is one point to which you will have to look in selecting the villages to be assigned; and in order to secure to each individual, as nearly as possible, what it was intended that he should receive, it will be your duty to ascertain approximately the fairly-estimated rental of each Mehal, you may choose for alienation in reward, checking your conclusions by reference to the Settlement Statement No. IV., which will show how the area was distributed at the time of settlement, and will give in the quantity of culturable land not cultivated, a fair notion of the then prospective capabilities of the Mehal. The Sudder Board of Revenue will be able to furnish extracts from the Statement No. IV., if they should not be readily accessible to you.

18*th*.—Another point, which calls for notice, is the assignment of lands to Native Officers of the Government, for whom reward of this kind has been sanctioned. Such Officers are forbidden to hold landed property within the District in which they hold office, except it should have come to them by inheritance, and for very special reasons, perhaps in some cases a similar exception may be made in respect of villages granted in recognition of service. But certainly, as a general rule, and except for reasons which must be fully explained, Native Officers must receive their assignments in other *Districts* than those to which they are officially attached. Land in the District of their home will be equally, if not more, acceptable.

19*th*.—The cases of this kind, His Honor apprehends, are comparatively few, and you will be able, in correspondence with the other Commissioners, to arrange about assignments to this class. It must, however, be noted, that every Native Officer, to whom reward in land has been promised, will appear in the Statement A. of that Division to which he belongs, as well as in the statement of the Division in which land may be

assigned to him. This precaution is necessary to ensure completeness of the statements from the several Divisions. Among the fictitious entries in the annexed statement will be found one or two of this nature, exemplifying what is desired.

20*th*.—Local claims, *i. e.* claims of bankers, independent native gentlemen, zemindars, and others domiciled in the Division, will best be met by assignments of land in the Districts to which they belong, and in proximity, if possible, to properties of which (if any) they may be already possessed.

21*st*.—Another point, in respect of which caution will be requisite, is that villages, selected for alienation in reward, should be unencumbered, and that the title conveyed to the assignments should be indisputable. Under Section 18 of Act IX. of 1859, no claim to restitution by re-appearance, and under Section 20, no claim in the Civil Court or the Court of Special Commission on the ground of alienation, can be raised beyond one year from the date of attachment or seizure of the property. No villages should be assigned in reward, upon which there are admissible liens, or of which the confiscation has not become final by *effluxion* of time or otherwise. These facts should be certified either in the column of Remarks, as respects each assignment, or at the foot of the statement generally. It will be understood that assignments already made and reported to Government and approved, will find a place in the Statement A., with a note in the column of Remarks, referring to the Government orders on the subject.

22*nd*.—Though you are called upon to use your discretion in the distribution of estates to persons rewarded, you are of course not only at liberty, but expected to consult the District Officers as to their capabilities, and to apply to them for information as to encumbrances, liens, &c.

23*rd*.—The Statement A., with the Abstract B., will be submitted (together with the Confiscation Statements prescribed by the Sudder Board Circular B., dated 4th March 1858, where that has not been already sent in) to the Sudder Board of Revenue, who will be requested to examine, and if they think fit, amend the assignments and eventually to lay the Statements therein prescribed, together with the Confiscation Statement of each District, before the Government for orders, with their opinion as to the manner in which each estate, not alienated in reward, had best be disposed of.

Statement A. for the Division of *in pursuance of Government Orders, No.* *dated* *July* 1859.

1.	2.	3.	4.	5					6.	7.
				VILLAGES PROPOSED TO BE ASSIGNED AS REWARDS.						
Number.	Name, designation, and residence of persons rewarded.	No. and date of Government Orders granting rewards.	Jumma of lands to be given in reward.	No. in Sudder Board's Statement. A.	Name of Village. B.	Jumma. C.	Pergunnah. D.	District. E.	Name of Rebel, former proprietor.	REMARKS.
	Motee Ram, Banker of Nynee Tal.	No. 3560, dated 10th September 1858, to Commissioner of Rohilcund, and No. 3550 to Commissioner of Kumaon.	Rs. 4000	5	Rajpoor, ...	800	Bareilly, ...	Bareilly, ...	Jye Ram.	
				15	Bazpoor, ...	1200	Ditto, ...	Ditto, ...	Bunsraj, Goojur.	
				37	Phoolpoor, 10 biswahs, ...	2000	Ditto, ...	Ditto, ...	Raj Koomar.	
				Total of assignments,	Motee Ram's assignments, ...	4000				
2.	Sepahdar Khan, Tehseeldar of Bareilly, resident of Furruckabad.	No. 4620, dated 10th November 1858, to Commissioner of Rohilcund.	Rs. 1500	10	Itmadpoor, ...	1560	Saheswan, ...	Budaon, ...	Sheikh Nujjuf and others.	This is slightly in excess of sanction; but no more convenient assignment can be found.
3.	Meer Moorad Alee, Zemindar of Bijnour Khas.	Ditto.	Rs. 3000	38	Phoolpoor, ...	2000	Rooderpoor,	Bijnour, ...	Devee Singh, Bal Ram Singh and others.	This assignment has been separately reported and approved by G. O. No. 358, dated the 20th January 1859.
				29	Sukeet, ...	500	Ditto, ...	Ditto, ...	Shibdyal Singh.	
				42	Bád, 10 biswahs,	500	Gudderpoor,	Ditto, ...	Sham Lall.	
				Total of assign	Meer Moorad's ments, ...	3000				

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Statement A.—(Continued.)

Number.	Name, designation, and residence of persons rewarded.	No. and date of Government Orders granting rewards.	Jumma of lands to be given in reward.	Villages Proposed to be assigned as Rewards.					Name of Rebel, former proprietor.	Remarks.
				No. in Sudder Board's Statement.	Name of Village.	Jumma.	Pergunnah.	District.		
4	Lalla Thakoor Dyal, Tehseeldar of Pawayu, Zillah Shajehanpoor, resident of Agra.	No. 560, dated 10th March 1858, to Commissioner of Rohilcund.	600	"	"	"	"	"	"	The land is to be assigned in Zillah Agra, and Commissioner has been requested to include the case in his Statement.
5	Sheikh Sekunder Alli, Tehseeldar of Bâh Pinahut, Zillah Agra, resident of Budaon.	No. 3876, dated 5th August 1858, to Commissioner of Agra, and No. 3877, to Commissioner of Rohilcund.	1000	26	Russoolpoor, ...	1000	Saheswan, ...	Budaon, ...	Bissesher Singh,	This assignment has been made to the Tehseeldar in this District, under orders of Government cited, and in pursuance of letter No. 380, from Commissioner of Agra, dated 5th July 1859.

N. B.—All the Mehals, entered in sub-division B. of column 5, were confiscated by sentence of Special Commissioner, more than a year ago.
The Rebels have not made appearance, and no suits have been filed.
There are no known incumbrances or liens.

Abstract B. for the Division of *in pursuance of Government Orders, No.* *, dated* *July* 1859.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
No.	District.	Total No. of confiscated Mehals in Statement of Sudder Board of Revenue.	Total Jumma of Column 3.	Number of persons rewarded by assignment of land in each District of the Division.	Total No. of Mehals assigned in each District according to Statement.	Total Jumma of Column 6.	No. of confiscated Mehals remaining in each District of the Division.	Serial No. remaining of Mehals in Sudder Board's Statement of each District.	Total Jumma of Column.
1	Bijnour, ...	50	Rs. 28,000	12	23	16,200	27	1 5 6 10 12 13 14, &c.	11,800
2	Moradabad, ...	64	50,000	30	39	35,000	25	3 5 9 15 16 17 18 20 25 36 and so on.	15,000
	and so on for each District of the Division.								

CIRCULAR No. 9.—*From* G. COUPER, *Esquire, Secretary to Government, North Western Provinces, to Commissioners of Divisions.—Revenue Department.—Dated Allahabad, the* 14*th November* 1859.

As references have been received from more than one quarter, under the supposition that Deputy Collectors, invested with Magisterial powers, are barred, under Section 164 of Act X. of 1859, from exercising any jurisdiction under that Act, I am directed to forward copies, as per margin,* of a correspondence which has taken place between this Government and the Commissioner of Benares, on the subject, for your information and guidance.

* From Commissioner, 5th Division, No. 54, dated 20th July, and three enclosures.
The reply of Government, No. 1617, dated 25th August, with copies of the papers therein alluded to.

No. 54.—*From* F. B. GUBBINS, *Esquire, Commissioner, 5th Division, to* G. COUPER, *Esquire, Secretary to Government, North Western Provinces, Allahabad.—Dated Benares, the* 20*th July* 1859.

I have the honor to submit copies of correspondence, as per margin, that has been passed between the Officiating Collector of Ghazeepore and myself, regarding the interpretation to be put on Section 164, Act X. of 1859, and to request that I may be favored with the opinion of Government, as to whether the orders issued to Mr. Bax on this subject, were correct or not.

Collector of Ghazeepore,	No. 360,	dated	9th July 1859.
Commissioner,	„ 272,	do	16th idem.
Collector,	„ 377,	do	18th ditto.

2*nd*.—The objection taken by, the Collector of Ghazeepore is a very just one, as there is no doubt but that the provisions of this enactment will (if I have interpreted them correctly) greatly paralyse the working of our Police Courts.

No. 360.—*From* J. H. BAX, *Esquire, Officiating Collector of Ghazeepore, to* F. B. GUBBINS, *Esquire, Commissioner, 5th Division, Benares.*

With reference to Section 164 of Act X. of 1859, I have the honor to request the favor of your informing me, whether the expression "Police functions" applies solely to Tehseeldars in their capacity of Police Officers and Thannadars, or could it be interpreted to apply to Deputy Collectors with Magisterial powers, who necessarily have Police functions too.

2*nd*.—Mr. Bachman is a Deputy Collector under Regulation IX. of 1833, and has full Magisterial functions; in fact it would generally apply to all Uncovenanted Officers, whose substantive appointments are generally Deputy Collectors under the above Regulation.

No. 272.—*From* F. B. GUBBINS, *Esquire, Commissioner, 5th Division, to* J. H. BAX, *Esquire, Officiating Collector of Ghazeepore.—Dated Benares, the* 16*th July* 1859.

I have the honor to acknowledge the receipt of your letter, No 360, dated 9th instant, and in reply to inform you, that Section 164, Act X. of 1859, has no reference whatever to Tehseeldars or Thannadars.

2*nd*.—The Section merely bars Mr. Bachman or any other Deputy Collector under Regulation IX. of 1833, from trying cases under this enactment as long as you

entrust him with any Foujdaree work. At least this is the way in which I understand the Section.

No. 377.—*From* J. H. Bax, *Esquire, Officiating Collector of Ghazeepore, to* F. B. Gubbins, *Esquire, Commissioner, 5th Division, Benares.—Dated Ghazeepore, the 18th July* 1859.

The opinion expressed in your letter, No. 272, dated 16th instant, deprives me at once of two Deputy Magistrates, and will involve on me an amount of detail work that I shall scarcely be able to accomplish satisfactorily.

2*nd*.—The Act framed as it was in the actual *Bengal* Presidency, might work without any inconvenience where the Revenue duties are generally separated from the Criminal; but here, while depriving Mr. Bachman and Roy Buldeo Buksh of current criminal work, I cannot deprive them of the Police functions given them by Government in addition to their substantive appointment of Deputy Collectors.

No. 1617.—*From* J. D. Sandford, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, .—to* F. B. Gubbins, *Esquire, Commissioner of the Benares Division.—Dated Allahabad, the 25th August* 1859.

I am directed to acknowledge the receipt of your letter No. 54, dated 20th ultimo, submitting a correspondence with the Officiating Collector of Ghazeepore, regarding the interpretation to be put on Section 164, Act X. of 1859, and soliciting the opinion of Government, as to whether your interpretation is correct, viz., that "no "Deputy Collector can try suits under the Act, so long as any Foujdary work be en-"trusted to him;" and in reply, to communicate the following observations and orders:—

2*nd*.—If your interpretation were correct, it would be simply impossible that the Act could be carried out in these Provinces, where every Deputy Collector is, His Honor believes, also a Deputy Magistrate, unless indeed Government were disposed to deprive these Officers of their Magisterial powers. But the interpretation put upon the Section by you is, His Honor considers, wholly incorrect. The Section was meant to apply to certain Deputy Magistrates in Bengal, who are described in a dissent recorded by the Hon'ble Mr. Peacock, as having been appointed for the purpose of exercising *Magisterial* functions, and continually moving about in their Districts, in order to superintend and *control the Police*, who are in fact to be employed in the Department of Executive Police. These men will not, it is presumed, be employed in judicial work at all; they will have nothing to do with deciding criminal cases, but will be simply Superintendents of Police. The other Deputy Magistrates, *i. e.*, those who are to be employed in the trial of criminal cases, are not to be incapacitated for exercising jurisdiction under Act X. of 1859. In fact they are the very men who will be employed in the trial of cases under the Act. That this view is correct, is evident from the assents and dissents recorded by members of the Legislative Council; extracts from which are sent herewith. Accordingly, the Deputy Magistrates of these Provinces are evidently not incapacitated under the Act any more than the Deputy Magistrates in charge of Sub-divisions in Bengal, alluded to in the paragraphs, of which copies are enclosed. The Deputy Collectors, though they may also be Deputy Magistrates, will be able to exercise jurisdiction under Act X. of 1859, so long as they are not vested with the functions of Executive Police.

Extract Para. 6 of Mr. Currie's Assent.

6.—Because when the principle involved in the new section, which was introduced by the Council into the Bill, is carried out, (as it may be without any further legisla-

tion,) and Officers exercising Police functions, are divested of all judicial powers, it will still be necessary that in the large districts of the Lower Provinces there should be sub-divisions, in charge of Deputy Magistrates, for the trial of criminal cases, which indeed the main object for which sub-divisions were first constituted; and if such Deputy Magistrates are also Deputy Collectors, as they are at present, the local Courts, which in those Provinces are undoubtedly necessary to give the people the full benefit of the Provisions of this Bill, will be supplied without additional expense; some portion of the Officers already authorized, being made Deputy Superintendents of Police, and the remainder being invested with the charge of sub-divisions.

Extract Para. 3 *of Mr. Grant's Assent.*

3.—On the worst possible supposition, namely the incapacitation of all Deputy Magistrates being also Deputy Collectors for the trial of rent-suits, by reason of their being all vested with functions of Executive Police; still even in this case the great majority of the parties to such suits will have the very same Officers stationed at the very same places to resort to, after this Bill becomes law; that they do in fact now resort to, and effectively it is not to be doubted that they will have many more; because it cannot be presumed that a District properly apportioned into sub-divisions, and adequately supplied over its whole extent with Deputy Magistrates, will require all or nearly all those Deputy Magistrates to be employed in the Department of Executive Police. The true use of the greater number will be in the Department of Criminal Justice, acting in which their presence throughout the District will remove the great approbrium of the old system, which is the want not of local Police Officers, but of local Judges. The employment of these sub-divisional Criminal Judges in their capacity of Deputy Collectors, also in the trial of the classes of Civil suits to which this Bill relates will be entirely proper in itself, and entirely consistent with the objects of their appointment. And though I wish that the Moonsiffs' Courts also had been left open to this class of suitors; yet, as in fact, the Moonsiffs' Courts try now only a small minority of these cases, I cannot deny that, when the arrangements in prospect are completed, the practical effect of this Bill will be to bring the trials nearer than they are at present to the doors of most of the parties, and most of the witnesses concerned.

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Circular regarding the modified rules respecting the grant of casual leave to Uncovenanted Servants of Government, ...	30th April 1858.	217
Notification No. 18, issued by the Supreme Government under date the 15th March, regarding pensions to Civil Court Ameens, ..	25th March 1859.	231
Notification No. 19, issued by the Supreme Government under date the 15th instant, regarding Deputation allowance to Mr. Bax, Joint Magistrate and Deputy Collector of Ghazeepore,	25th March 1859.	*ib.*
Notification issued by the Governor General of India under date the 19th April last, No. 33, relative to the deputation allowance receivable by Covenanted Officers, Civil or Military, acting for Uncovenanted Officers and *vice versa*,	7th May 1859.	232
Republishing notification, directing that the rule laid down by the late Hon'ble Court of Directors (considering it generally objectionable in principal to grant allowances appointed as the remuneration for actual service, and to meet expenses necessarily attendant thereon to an Officer on retirement) shall not be held to be applicable to offices sanctioned only for a limited term, ...	22nd July 1859.	*ib.*
Republishing Extract from Proceedings, Financial Department, Government of India, in supercession of Orders No. 3073, dated 4th July, relative to the allowances of Military Officers in Civil employ after their return from sick Furlough from England, ...	17th August 1859.	233
Regarding travelling allowances to be drawn by Officers proceeding by Railway on the Public Service, ...	30th June 1859.	235
FOREIGN DEPARTMENT.		
Resolution determining that cases in which the salary of the appointment in which an Invalid Officer may be acting is less than his Military allowances, will always be decided by their merits on the understanding, that the remuneration so given shall not exceed one-third of the salary of Office to which such Officer may be nominated, ...	13th April 1859.	237

ORDERS OF THE GOVERNMENT,

NORTH WESTERN PROVINCES.

FOR 1859.

GENERAL, FINANCIAL, AND FOREIGN DEPARTMENT.

No. 26.—*Notification.—General Department, North Western Provinces.—Dated Allahabad, the 11th January* 1859.

THE following notice, issued by the Post Master General, North Western Provinces, is published for general information :—

Much unnecessary correspondence being entailed on the Officials of the Post Office, by Officers refusing to receive and pay for the covers superscribed, "On the Public Service only," when charged with bearing postage in consequence of their not being properly franked, the Post Master General, North Western Provinces, publishes for general information copies of the Orders of the Supreme Government, dated the 13th July 1855, and 28th July 1858, by which it will be seen that Public Officers are enjoined to receive all service covers that are charged with postage, in consequence of being improperly franked, or not franked at all, and recover the amount by a charge in a Contingent Bill, in their own Department, supported by the original covers as Vouchers.

No. 884.—*Notification.—Genaral Department, North Western Provinces.—Dated Allahabad, the 11th January* 1859.

Extract of an Order by the Supreme Government, dated the 13th July 1855.

No Public Officer is authorized to send covers on the Public Service by post, without payment of postage, unless he is at the time on active duty, and in charge of the Office by virtue of which the privilege is enjoined. All letters superscribed as, "On the Public Service only," must even, though the postage thereon be not paid, be received and opened by the Officer to whom they are addressed; but if any such unpaid, or partially paid letter so superscribed and addressed to any Officer, except a Secretary to Government, be found, when opened, to relate to the private affairs of the sender, the postage will be debited to him, and he will be further liable to be dealt with under Section 47, Act No. XVII. of 1854.

His Honor in Council further directs, that unpaid, or insufficiently paid letters, addressed to any such Officer, or Department, and not superscribed "On the Public Service only," be refused, or if opened, that it be at the risk and cost of the opener.

Extract from the Proceedings of the Hon'ble the President of the Council of India, in Council, in the Home Department, under dat. the 28th July 1858.

Some time in December last, Mr. *** sent by the post an envelope containing ***** The envelope was superscribed as, "On the Public Service only," and was

signed by Mr. *** without any official designation. It seems to have been sent free by post from Persia, as it bears the red Persian field force post mark; but on arrival at Bombay, it was charged with postage, (not being franked by an authorized Officer,) and forwarded to its destination.

On being delivered to Mr. *** that Officer wrote upon the letter "Bearing Postage, refused A. B." It was accordingly returned to the Calcutta Post Office, and sent back thence to Bombay. At Bombay it was opened in usual course according to law, and returned with its enclosure to Mr. ***.

Mr. *** now complains to the Government of India, and lays the blame on the Post Office.

The Hon'ble the President in Council considers, that it is not the Post Office that is to blame in the matter, but Mr. ***, who on receiving the envelope superscribed "On the Public Service only," and signed C. D., refused to receive it, merely because it was charged with postage, instead of paying the postage, and charging it in his Contingent Bill. Mr. *** in this acted in direct contravention of a positive Order of the Government of India, contained in the Notification of the 13th July 1855, (No. 884.)

The Post Office acted strictly according to law and rule; and blame cannot fairly be imputed to the Officers of the Department for failing to discover the importance of the letter, and not treating it exceptionally.

REVISED RULES.

XI.—At each Presidency Post Office, Banghy parcels will be received every day, Sundays excepted, for despatch from 10 A. M. till 5 P. M., and newspapers and letters every day till 6 P. M., after which hours respectively, late letters, newspapers, or parcels, will be received till 7 P. M., on payment of an extra postage of 8 annas on each cover.

XIII.—At Provincial Post Offices, banghy parcels will be received for despatch from 10 A. M. till 4 P. M., and letters and newspapers till 5 P. M., after which hours respectively, late letters, newspapers, or parcels, will be received till 5¾ P. M., on payment of an extra postage of 8 annas on each cover. *Late letters, &c., whether posted at a Presidency Post Office or at a Provincial Post Office, must be prepaid in stamps so as to include both the ordinary postage and the late-letter fee.*

XXIV.—Letters will be registered on payment of a fee of 4 annas, and parties posting such letters will be furnished with a receipt bearing the address of the letter and the office stamp. On the delivery of a registered letter, a receipt for the same must be given to the delivery peon. *The postage and registration fee of registered letters must be prepaid in stamps.*

No. 36.—*Notification.*—*General Department.*—*Dated Allahabad, the* 3*rd February* 1859.

The following Extract of the Proceedings of the Government of India, in the Financial Department, under date the 14th ultimo, is published for general information:—

No. 157.

Extract from the Proceedings of the Government of India, in the Financial Department, under date the 14*th January* 1859.

READ an Office Memorandum, from the Home Department, No. 2842, dated the 29th ultimo, forwarding for consideration and orders, papers relative to an application from Captain R. Murray, Deputy Superintendent of Electric Telegraphs, in the North Western Provinces and the Punjab, for preparatory leave prior to applying for sick Furlough to Europe.

RESOLUTION.

The President in Council observes that Captain R. Murray, Deputy Superintendent of Electric Telegraphs, in the North Western Provinces and the Punjab, who applied for three months' leave of absence preparatory to applying for Furlough to Europe, on Medical Certificate, was allowed,* on a report from the Civil Auditor, Fort William, leave for eight weeks only, in accordance with the Financial Resolution of 14th October 1857.

* Vide orders in the Home Department, dated 17th December 1858.

2.—Captain Murray, however, urges that the Resolution above adverted to, does not apply to Military Officers in Civil employ; and he, therefore, solicits that his application for preparatory leave may be re-considered, and leave granted to him for the period asked for, viz., three months, instead of eight weeks.

3.—On this solicitation, His Honor in Council is pleased to allow, in the present case, leave for three months; but he directs that, in future, preparatory leave to Military Officers in Civil employ be regulated by the Military Rules, with this exception, viz., that such leave shall, in no case, be extended beyond a period of four, six, or eight weeks, according as the distance to be travelled, shall not exceed 300 or 600 miles, or be in excess of the last mentioned distance.

CIRCULAR No. —*From the Secretary to the Government of India, Home Department, to* .—*Dated the 11th January* 1859.

IT has become the practice in many of the Public Officers, in the several Presidencies, and at the seat of the Supreme Government, to print Official Letters and Papers instead of copying them in manuscript.

2. Persons seeing an Official document in print are apt to suppose that it has been published, and that they are at liberty to use it accordingly, or at any rate to be careless, whether its contents become generally known or not. This is a mistake.

3. Official Papers, whether printed or copied by hand, are of a confidential character, and are not to be published except by order of competent authority and under the prescribed rules. The same precautions are to be taken in either case against their publication, and in either case the infraction of the existing prohibition is equally culpable.

4. I am directed by the Hon'ble the President in Council, to request that instructions to this effect may be generally circulated.

NOTIFICATION.

17th February 1859.—No. 94.—The following Circular No. 499, dated 28th January, issued by the Officiating Secretary to Government of India, in the Public Works Department, is published for general information :—

CIRCULAR No. 499.—*General Department.—Dated Allahabad, the 21st February* 1859.

THE Right Hon'ble the Secretary of State for India has observed, in a recent Report by the Chairman of a projected Railway Company, a quotation from a letter from an Officer in the Public Works Department on the project in question. His Lordship observes, that this Officer was probably not aware of the use to which his letter would be applied; but that it is very desirable that Officers in the service of Government, especially those who are in a position which adds weight to their opinions, should abstain from entering into a correspondence with the projectors of schemes which have been referred for the consideration of the Government of India, or from expressing in any way opinions which may be employed by the Directors of Companies in England, to gain the support of the public to their proposed undertakings. The Right Hon'ble the Secretary of State desires that these views may be promulgated and acted on by all Officers.

RESOLUTION.

22nd March 1859.—No. 323.—The following Resolution, No. 373, issued by the Government of India, Home Department, under date the 19th February 1859, is re-published for general information :—

" *21st February* 1859.—No. 373 —*The following Resolution of the Right Hon'ble the Governor General of India in Council, under date the 19th February* 1859, *is published for general information.*

Read again the Resolution dated the 28th February 1856, regarding the allowances, to be passed to Roman Catholic Bishops and Chaplains, &c.

Read a Despatch No. 8, dated the 31st December 1858, from the Right Hon'ble the Secretary of State for India, on the above subject.

Read also the 11th paragraph of the Despatch of the Hon'ble the Court of Directors No. 8, dated the 1st July 1857, on the subject of allotting Roman Catholic Priests to stations where no European Troops are located.

Under the 5th, 6th, and 7th paragraphs of the Resolution of the 28th February 1856, an allowance of Rs. 400 per mensem was authorized to be drawn by each of four Bishops of the Roman Catholic Church in India, *viz.*, by one in each of the Presidencies of Madras and Bombay, and by one in each Division of the Bengal Presidency, in consideration of the labor imposed on them in furnishing the Ecclesiastical Returns for transmission to England.

Under the 9th paragraph of the same Resolution, the following principles were laid down for determining the numbers and rates of pay of Roman Catholic Priests at the several stations in India.

1. Wherever two or more European Regiments are quartered together, two Priests shall be allowed on salaries of Rs. 150, and Rs. 100 per mensem, respectively.

2. Wherever more than one Regiment of Europeans, but less than two shall be located, one Priest shall be allowed on a salary of Rs. 150 per mensem.

3. But the Priests at each seat of Local Government shall be allowed a salary of Rs. 150 per mensem, irrespectively of the number of European Regiments located there.

4. At any other station to which a Priest may be appointed, his salary shall be Rs. 100 per mensem.

In addition to the provision made for the spiritual wants of Troops at Stations, it was determined in the 8th paragraph of the Resolution of the 28th February 1856, "that a Priest shall be allotted to every Station where, though there may be no European " Regiment, such a number of British-born Roman Catholics in the service of the " Government may reside as may seem to Government to require a separate " Pastor."

On this point the Hon'ble the Court of Directors, in the 11th paragraph of their Despatch No. 8, dated the 1st July 1857, desired that this Government "should lay " down with more precision the circumstances under which the Local Government may " grant an allowance to places where no European Regiment may be stationed." The consideration of this suggestion was deferred by the Government of India until the return of tranquillity.

In the Despatch of the Secretary of State of the 31st December 1858, quoted at the head of this Resolution, an augmentation of the allowances heretofore passed to the Roman Catholic Bishops and Priests has been sanctioned. The Bishops are henceforth to draw Company's Rs. 500, per mensem each, while the allowances to Roman Catholic Chaplains are authorized to be raised from Rs. 100 and Rs. 150 to Rs. 150 and Rs. 200 per mensem, respectively.

His Excellency the Governor General in Council is pleased accordingly to gvei effect to the above orders from this date.

His Excellency in Council is also pleased to determine, with reference to the 8th paragraph of the Resolution of the 28th February 1856, and the suggestion of the Hon'ble the Court of Directors made in their Despatch of the 1st July 1857 above quoted, that a Priest on a salary of Rs. 150 a month shall be allotted to every Station where, though there may be no European Regiment, there shall be at least 100 British-born Roman Catholics, Natives of Great Britain and Ireland, resident and in the service of Government.

ORDERED.—That a copy of this Resolution be communicated to the Military, Foreign and Financial Departments, for information and for the issue of such further orders as may be necessary in those Departments.

That a copy of this Resolution be communicated to the Governments of Fort St. George, Bombay, Bengal, the North Western Provinces, the Punjab, and the Straits' Settlements, for information and guidance.

And that this resolution be published in the *Calcutta Gazette* for general information.

NOTIFICATION.

General Department.—Dated Allahabad, the 25th April 1859.

"*Fort William, 6th April* 1859.—No. 473.—The following Notification, from the Home Department, is published in General Orders :—

1st April 1859.—No. 691.—The following Rules for the transmission of Service Messages by Electric Telegraph, passed by his Excellency the Governor General of India in Council, on the 1st April 1859, in supercession of all previous Rules on the subject, are published for general information :—

I. From the 1st May 1859, all Messages sent on Service by public functionaries of all classes, must be paid for in cash previous to despatch.

II. The rates payable for the number of words and distances, will be the same in all respects as those charged to private individuals.

III. Repetition price will be charged, whenever the Message contains numbers, or refers to financial matters.

IV. The privilege of precedence in despatch for all Service Messages will cease, except in cases of pressing public emergency and importance, when priority of despatch may be claimed by the sender. The Superintendent will bring to the notice of the Government of India any case of a Public Officer insisting in priority of despatch without reason.

V. One exception only will be made to the Rules of cash payments. Officers in command of Troops employed in operations in the Field, may send their Messages without payment. But this privilege does not extend to the case of Troops marching to join, or to moveable columns while halted, and with funds available for contingent expenses.

VI. The sums paid by public functionaries for the despatch of Messages will be recovered from Government by the sender, by contingent bills countersigned as usual.

VII. The above Rules do not apply to the Hooghly River Lines and Offices, which are employed for special purposes.

VIII. The Governors of Pondicherry and Goa shall also continue to enjoy the privilege of free transmission of Messages conceded to their Governments."

No. 4880.—*Extract from the Proceedings of the Government of India, in the Financial Department, dated 3rd June* 1859.

READ an endorsement from the Home Department, No. 1356, dated the 9th ultimo forwarding, for consideration and orders, a despatch from the Government of Bombay No. 1140, dated the 10th idem, submitting for decision a question connected with the Uncovenanted Service Leave Rules.

RESOLUTION.

The Government of Bombay enquires, whether an Uncovenanted Servant is at liberty to draw his salary while absent on *privilege* leave; and remarks that the rule under which Covenanted Civil Servants are debarred from drawing their allowances until their return to duty, would, if held applicable to Uncovenanted Servants, occasion pecuniary embarrassment, if not entirely prevent the privilege being availed of.

2.—In this opinion, however, the Governor General in Council cannot agree. He finds that men are willing enough to avail themselves of Privilege Leave, even under the restrictions at present in force, which do not permit of allowances being drawn by parties absent on Privilege Leave, until they return to duty.

3.—These restrictions appear to be founded on the late Hon'ble Court's orders, dated 21st May 1856, as noted in the margin.* There is, however, no express interdiction in the Rules, nor any definite ruling against *Uncovenanted* Servants drawing their allowances during absence on Privilege Leave.

* No. 40 of 1856, para. 3.
"A Civil Servant must return to his "duty at the expiration of his Privilege "Leave to entitle him to the advantages "thereof. His allowances will therefore "not be payable till he shall have rejoin-"ed his appointment."

4.—But in the case of Private Affairs Leave, the Uncovenanted Rules distinctly provide that "no portion of the salary allowed to be drawn will be claimable, till the "absentee shall have returned to his duty;" and in the case of *Sick* leave, (and *Sick* leave "only) it is provided in Sec. X (now Sec. VI) that "parties who may desire to draw "their allowances while absent on leave, will be required to give security "in such "amount, and form as may be fixed by Government for the refund of any excess that "may be drawn in case of their coming under retrenchment;" thereby implying that in cases of absence on other kinds of leave, allowances cannot be issued during such leave.

5.—On these grounds, the Governor General in Council considers, that an Uncovenanted Servant cannot draw his salary while absent on Privilege Leave.

ORDER.—Ordered, that a copy of the foregoing Resolution be sent to the Home Department, for communication to the Government of Bombay.

Ordered further, that a copy of the Resolution be sent to the Departments* Governments† and Officers‡ noted in the margin, for information and guidance.

* Foreign, Home, Military, and Public Works Departments.
† Governments of Bengal, Madras, N. W. Provinces, Punjab, and Straits' Settlement.
‡ Civil Auditors, Fort William, Fort Saint George, Bombay, N. W. Provinces and Punjab.

DOCKET No. 352.—*From* C. B. THORNHILL, *Esquire., Officiating Commissioner, 4th Division, to* G. E. W. COUPER, *Esquire, Secretary to the Government of the North Western Provinces, Allahabad.—Dated Allahabad, the 25th May* 1859.

COPIES submitted of Dispensary Returns for 2nd half of 1858, for the districts of the Allahabad Division.

Half-yearly Return of Patients treated in the Allahabad Charitable Dispensary, from the 1st July to 31st December 1858.

Patients.	Remaining on the 30th June 1858.	Admitted.	Total.	Cured.	Relieved.	Incurable.	Died.	Result not known.	Remaining under treatment.	REMARKS.
In-door Patients, ...	0	0	0	0	0	0	0	0	0	
Out-door Patients,	21	2709	2730	2255	93	0	3	333	46	
Total, ...	21	2709	2730	2255	93	0	3	333	46	

Half-yearly Cash Accounts of the Charitable Dispensary, from the 1st July to 31st December 1858.

Dr. *Cr*

	Rs.	A.	P.		Rs.	A.	P.
To Balance in hand on the 1st July 1858,				By amount pay of establishment, from 1st July to 31st December 1858, ...	1650	4	9
To Subscription collected from 1st July to 31st December 1858, ...	0	0	0	Amount paid for Bazar Medicines supplied to the Dispensary ...	91	11	3
To Government Donations drawn from the month of July to December, at Rs. per mensem, under orders dated, ...	0	0	0	Balance in hand, ...	0	0	0
To Amount of Cash received from Government, through the Superintendent, from 1st July to 31st December 1858, ...	1742	0	0				
Total, Co's. Rs. ...	1,742	0	0	Total, Co's Rs. ...	1742	0	0

(Signed) DENANATH DOSS,
Sub-Assistant Surgeon.

(Signed) J IRVING,
Superintendent.

Half-yearly Return of Patients treated in the Banda Charitable Dispensary, from the 1st July to the 31st December 1858.

Patients.	Remaining on the 1st July 1858.	Admitted.	Total.	Cured.	Relieved.	Incurable.	Died.	Result not known.	Remaining under treatment.	Remarks.
In-door Patients, ...	5	47	52	23	12	2	5	1	9	
Out-door Patients, ...	15	931	946	631	108	10	4	146	47	
Total,	20	978	998	654	120	12	9	147	56	

Banda: The 1st January 1859.

(Singed) JAMES ADAMSON,
Civil Assistant Surgeon, Zillah Banda.

Half-yearly Cash Account of the Banda Charitable Dispensary, from the 1st July to the 31st December 1858.

Dr. *Cr.*

	Rs.	A.	P.		Rs.	A.	P.
To Balance in hand on the 30th June 1858,	0	0	0	By amount pay of establishment, ...	406	10	8
To Government Donations drawn from the month of July up to 31st December, ...	559	6	0	By amount paid for diet supplied to the In-patients,	63	1	1
				Ditto for Half-yearly supply of Bazar Medicines, ...	89	10	3
				Balance in hand, ...	8	0	0
Total, Co's Rs. ...	559	6	0	Total, Co's Rs. ...	559	6	0

Banda: The 1st January 1859.

(Signed) JAMES ADAMSON,
Assistant Surgeon in Medical Charge, Zillah Banda.

Half-yearly Return of Patients treated in the Futtehpore Charitable Dispensary, from the 1st July to the 31st December 1858.

Futtehpore, 1st January 1859.

Patients.	Remaining on the 30th Jan. 1858.	Admitted.	Total.	Cured.	Relieved.	Incurable.	Died.	Result not known.	Remaining under treatment.
In-door Patients, ---	0	30	30	24	0	0	2	0	4
Out-door Patients,...	0	122	122	96	0	0	0	0	26
Total, ...	0	152	152	120	0	0	2	0	30

Half-yearly Cash Accounts of the Charitable Dispensary, from the 1st July to the 31st December 1858.

Futtehpore, 1st January 1859.

Dr. *Cr.*

	Rs.	A.	P.	Rs.	A.	P.		Rs.	A.	P.	Rs.	A.	P.
To Balance in hand on the 30th June 1858, ...	0	0	0	0			By amount pay of establishment from 1st July to the 31st December 1858, ...	421	11	9			
To Subscription collected from 1st July to the 31st December 1858, ...	0	0	0	0			By amount paid for diet supplied to the patients at, ...	468	5	4	490	1	1
To Government Donation drawn from the month of August up to December, at Rs. per mensem, ...	490	1	1	490	1	1	By amount for Half-yearly supply of clothes to the In-patients in last, ...	0	0	0	0	0	0
To Interest upon Government Promissory Notes drawn in&c. &c.,...	0	0	0				Ditto do. paid to extra Native Doctors employed in, ...	0	0	0	0	0	0
							Balance in hand,...	0	0	0	0	0	0
Total, Co's. Rs.	490	1	1				Total, Co's. Rs.	490	1	1	0	0	0

(Signed) T. T. SHERLOCK,

Civil Assistant Surgeon, Futtehpore.

Half-yearly Return of Patients treated in the Government Dispensary at Cawnpore, from 1st July to 31st December 1858.

Cawnpore, the 1st January 1859.

Patients.	Remaining on the 30th June 1858.	Admitted.	Total.	Cured.	Relieved.	No better.	Incurable.	Died.	Result not known.	Remaining under treatment on the 30th Decr. 1858.	Remarks.
In-door Patients,...	12	103	115	73	1	0	0	20	6	15	
Out-door Patients,	28	2055	2083	1702	143	0	13	0	199	26	
Total, ...	40	2158	2198	1775	144	0	13	20	205	41	

(Signed) JOHN TRESIDDER,
Civil Surg. Govt. Dispensary, Cawnpore.

(Signed) RAM SING,
Native Doctor in charge, Government Dispensary

Half-yearly Cash Account of the Government Dispensary at Cawnpore, from 1st July to 31st December 1858.

Cawnpore, the 1st January 1859.

Dr. *Cr.*

	Rs.	A.	P.					Rs.	A.	P.			
To Balance in hand on the 1st July 1858, ...	0	0	0				By amount pay of establishment from 1st July to 31st December 1858, ...	501	0	0			
Subscription collected from 1st July to 31st December 1858,							By amount paid for house rent from 1st July to 31st December 1858, ...	150	0	0			
Government Donation from 1st July to 31st December 1858, at average rate of Rs. 167-7-5=77 per mensem, under orders, date not known, ...	1004	12	10				By amount for food supplied to the patients, from 1st July to 31st December 1858, ...	87	12	10			
Interest upon Government Promissory Notes drawn in, ...							By amount paid for Country Medicines, from 1st July to 31st December 1858, ...	74	5	5			
							By amount paid to Extra Native Doctor emplyed in the Government Dispensary, from 1st July to 31st December 1858, ...	150	0	0			
							By amount paid for miscellaneous articles supplied to the Government Dispensary, from 1st July to 31st December 1858, ...	41	10	7			
Total, Rs.				1004	12	10	Total, Rs. ...				1004	12	10

(Signed) J. TRESIDDER,
Civil Surgeon and Superintendent, Government Dispensary, Cawnpore.

(Signed) RAM SING,
Native Doctor in charge, Government Dispensary.

Half-yearly Return of Patients treated in the Kirwee Charitable Branch Dispensary, from 1st July to 31st December 1859.

Patients.	Remaining on the	Admitted.	Total.	Cured.	Relieved.	Incurable.	Died.	Result not known.	Remaining under treatment.	Remarks.
In-door Patients, ..	0	9	9	4	0	0	3	0	2	
Out-door Patients, ...	36	1137	1173	774	87	10	11	241	59	
Total, ...	36	1146	1182	778	87	10	14	241	61	

Banda:
1st January 1859.

(Signed) JAMES ADAMSON,
Civil Assistant Surgeon, Banda.

Half-yearly Cash Account of the Kirwee Charitable Branch Dispensary, from the 1st July to the 31st December 1858.

Dr. *Cr.*

	Rs.	A.	P.		Rs.	A.	P.
To Balance in hand on the 30th June 1858, ...	0	0	0	By Amount pay of establishment, ...	192	0	0
				By amount paid for diet supplied to the In-patients,...	11	14	3
To Charitable Donations from the month of July up to the 31st December 1858, ...	270	7	0				
				Ditto for Half-yearly supply of Bazar Medicines, ...	66	8	9
				Balance in hand, ...	0	0	0
Total, Co's. Rs. ...	270	7	0	Total, Co's. Rs. ...	270	7	0

Banda:
1st January 1859.

(Signed) J. ADAMSON,
Assistant Surgeon in Medical charge, Zillah Banda.

No. 1019 of 1859.—*From* F. B. OUTRAM, *Esquire, Under-Secretary to the Government of the North Western Provinces, to* C. B. THORNHILL, *Esquire, Officiating Commissioner, Allahabad Division—General Department.—Dated Allahabad, the 1st July* 1859.

I AM directed to acknowledge the receipt of the Dispensary Returns of your Division for the 2nd half of 1858, received with your Docket No. 352, dated 25th May last, and in reply to call your attention to the Circular Order of this Government, No. 321, dated 22nd March 1859, with enclosures, and to observe that Government expects District Officers will exert themselves to induce residents to contribute monthly subscriptions in aid of these institutions.

2*nd*.—If subscriptions are discontinued permanently, the Government must withdraw its support.

No. 660 of 1859.—*From* A. Ross, *Esquire, Officiating Commissioner of the Agra Division, to* G. E. W. COUPER, *Esquire, Secretary to the Government of the North Western Povinces.—Dated Agra, the 8th July* 1859.

I HAVE the honor to submit for the consideration and orders of Government, copy of a letter No. 114, dated 2nd instant, from the Magistrate of Etawah, with its annexures, on the subject of the extent to which aid may be legitimately afforded by a public officer in the publication of notices, having for their object the making widely known among the native community, the project of private companies or individuals, calculated to benefit the public.

2*nd*.—I am not aware that this question has before been raised, at least exactly in its present form; but I myself can see no objection if the distinction laid down in the 5th and 7th paras. of Mr. Hume's letter, be strictly observed by a public officer lending the amount of aid contemplated by Mr. Hume in the promulgation of such notices as Mr. Hume describes.

3*rd*.—The orders of Government are solicited on this subject.

No. 114 of 1859.—*From* ALLAN HUME, *Esquire, Magistrate of Etawah, to* A. Ross, *Esquire, Commissioner of the Agra Division.—Dated Etawah, the 2nd July* 1859.

I HAVE the honor to enclose for your consideration copies of two applications this day received, one from the Deputy Agent of the East Indian Railway Company, and the other from the Manager of the Ganges Canal Navigation Company.

2*nd*.—I personally concur that the publication of such notices would be for the benefit of the public, but I doubt whether, according to the rules in force, any such notices can be promulgated by means of, or through Government officials, without the permission of Government.

3*rd*.—As the recent influx of independent Europeans into these Provinces, and the daily increasing number of Joint Stock Companies renders it probable, that district officers will frequently receive similar applications, I think it would prevent much inconvenience if Government would at once issue some definite instructions as to how they are to be dealt with.

1*th*.—Government and Government officials are after all only the representatives or servants of the public, and if any scheme promises *primâ facie* to afford advantages to that public, I see no reason why public officers, (while scrupulously guarding themselves against recommending the same,) should not, so far as can be done without interfering with their more special duties, cause such projects to be generally known.

5th.—I would draw a distinction between schemes which relate directly to the convenience of the public, such as the present, and others of which the chief advantages may be supposed to result to the originators of the scheme, and from which the benefit to the public is doubtful.

6th.—It is impossible to define in words any *exact* boundary or line of demarcation between the two classes of undertakings, but at the same time, I think that the distinction must be apparent to any educated person.

7th.—I would recommend therefore some such rule as the following: that on receipt of such application, the Magistrate should record on it his opinion as to whether the notice was or was not of a nature deserving circulation through the agency of Government servants, and immediately submit the same to the Commissioner, whose orders on the subject should be final.

Of course all I propose that Government officials should do in such matters is, to distribute and affix in conspicuous places on Thannas, Tehseelees, Marts, Bazars, and other places of public resort, such printed or written notices as may be furnished them by the parties desirous of giving publicity to any work or project.

No expense of any sort could of course be incurred by Government for such purposes.

No. 272.—*From* CECIL STEPHENSON, *Esquire, Deputy Agent, East Indian Railway Company, to* A. O. HUME, *Esquire, Magistrate of Etawah.—Dated Allahabad, the* 30*th June* 1859.

I HAVE the honor to request the favor of your allowing a copy in both characters of the enclosed Notification to be posted at the Kotwalee and Thannahs within your jurisdiction.

From W. CHARDE, *Esquire, Manager, Ganges Canal Navigation Company, Meerut, to* A. O. HUME, *Esquire, Magistrate of Etawah.—Dated the* 29*th June* 1859.

I BEG you will have the goodness to permit the accompanying copies of Prospectuses and Tables of Rates of this Company in Persian and Nagree to be distributed in all the principal towns in the Etawah District, through means of the several Thannadars.

It is certainly for the benefit of Government to encourage and promote commerce while it will be no less to the advantage of the people of your district, but more especially of the trading or mercantile section, the Saookars, Bipparies and Sodagars, to have the opportunity of availing themselves of cheap water carriage, in room of the far more expensive land transport they have been hitherto confined to in most of the Stations.

No. 1225 *of* 1859.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to* A. ROSS, *Esquire, Officiating Commissioner of the Agra Division.—General Department.—Dated Allahabad, the* 25*th July* 1859.

I AM directed to acknowledge the receipt of your letter No. 660, dated 18th instant, submitting a copy of one from the Magistrate of Etawah, and of its annexures, regarding the extent to which aid may be legitimately afforded by a public officer, in the publication of notices, having for their object, the making widely known among the native community projects of private companies, or individuals which are of a nature calculated to benefit the public.

2*nd*.—The Lieutenant Governor sees no objection whatever to the recommendation of Mr. Hume, in his 7th paragraph, viz., that, on the receipt of such applications as those submitted by him, the Magistrate should record on them his opinion, as to whether the notice is or is not of a nature deserving of circulation through the agency of Government servants, and submit it immediately to the Commissioner of the Division, whose orders on the subject should be final.

3*rd*.—The interference of Government officials should be confined to the allowing such printed or written notices as may be furnished to them by the interested parties to be affixed to Thannahs, Tehseelees, Marts, Bazars and other conspicuous places of public resort. The Police should not be employed as a means of *circulating* the prospectuses, and of course no expense of any kind shall be incurred by Government for such purposes.

4*th*.—As suggested by Mr. Hume, a Circular declaring the above rule will be promulgated.

CIRCULAR No. 4.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to the Commissioner of Divisions.—General Department. Dated Allahabad, the* 25*th July* 1859.

APPLICATIONS having been brought to the notice of this Government for permission to circulate through public officers, notices which have for their object the making widely known among the Native community, projects of private companies or individuals, which are of a nature calculated to benefit the public, and as many similar applications are likely to be preferred in consequence of the recent influx of enterprising Europeans into these Provinces, and the daily increasing numbers of Joint Stock Companies, His Honor the Lieutenant Governor directs that the following rule may be observed in such cases.

2*nd*.—On the receipt of such an application, the Magistrate will record on it his opinion, as to whether the notice is or is not of a nature deserving of circulation through the Agency of Government servants, and submit it immediately to the Commissioner of his Division, whose orders on the subject will be final.

3*rd*.—The Police must not be employed as a means of *circulating* these prospectuses, nor may any expense whatever be entailed on Government on such an account. The aid afforded by Government officials need only extend to permitting such notices, written or printed, as may be furnished by the parties desirous of giving publicity to the work on project, to be affixed to Thannahs, Tehseelees, Marts, Bazars and other conspicuous places of public resort.

No. 1310 of 1859.—*Notification.—General Department.—North Western Provinces. Dated Allahabad, the* 4*th August* 1859.

WITH reference to Section X. of the Pension Rules of the 4th January 1831, and the Resolution of the Supreme Government, dated 30th December 1848, which require that the case of an applicant for a superannuation pension shall be supported by a Medical opinion, and when practicable, by the opinion of a Medical Committee; the Lieutenant Governor desires, that in future the head of the office will invariably draw up a narrative memorandum, to be sent with the applicant to the Medical officer and Committee.

This memorandum should show the age of the party, the term of his employment in the Public Service, his habits of life so far as they are known, the duty upon which

he has been employed, and the requirements of physical energy and mental capacity, which the efficient discharge of such duty involves, together with such other particulars as sound judgment would indicate to be necessary to complete the case for medical opinion.

CIRCULAR No. 5513 of 1859.—*From* R. SIMSON, *Esquire, Under-Secretary to the Government of India, to* G. E. W. COUPER, *Esquire, Secretary to the Government of the North Western Provinces.—Foreign Department. Dated Fort William, the 9th September* 1859.

I AM directed by the Governor General in Council to forward for the information of the Lieutenant Governor copy of a Despatch from the Secretary of State for India, No. 33, dated 28th July last, together with a copy of the Notification issued by the Supreme Government thereon, and to request that the same may be made generally known in the North Western Provinces, and published in the Vernacular *Gazette*.

No. 5512.—*Notification—Fort William, Foreign Department, the 9th September* 1859.

THE following Despatch from the Right Hon'ble the Secretary of State for India, No. 33, dated the 28th July last, is published for general information :—

All memorials and other communications addressed to Her Majesty, are to be presented in the first instance, to the local Government of the Presidency, or to the local administration of the Province to which such memorials or communication may relate.

They will be forwarded by the local Government or administration to the Government of India accompanied, if in any native language, by a full translation in English, and by the Government of India to Her Majesty's Secretary of State.

No memorials or other communications addressed to Her Majesty, if sent or presented otherwise than according to this rule, can be attended to.

By order, &c.
(Signed) C. BEADON,
Secretary to the Government of India.

No. 33.—*Political.—From* C. WOOD, *Esquire, Secretary of State for India, to His Excellency the the Right Hon'ble the* GOVERNOR GENERAL *of India in Council. Dated India Office, London, the 28th July* 1859.

FOR some years passed, a large number of letters, some in English, and others in different native languages, have been forwarded through the Post Office, to the address of Her Majesty, and since the assumption of the direct Government of India by the Crown, the number of these communications has increased, and may still further increase. It is desirable, therefore, that you should adopt measures to make it more generally known, that all memorials or other communications addressed to Her Majesty, should be forwarded through the local Governments of India. These communications you will transmit to me in the several Departments to which the subject treated of belongs, and when they are written in the Native languages, translations into English should be attached to them.

FINANCIAL DEPARTMENT.

No. 2591.—*Extract from the Proceedings of the Hon'ble the President of the Council, of India in Council, in the Financial Department, under date the 30th April* 1858.

It is no doubt necessary, the Honorable the President in Council remarks, that every office should open Registers of Leave of Absence granted to the Members of its Establishment, but he is of opinion that all the five Registers prescribed by the Government of Bombay, are not required. No such leave as "Casual Leave on Private Affairs" has ever been sanctioned by this Government, and His Honor in Council requests that the order of the Bombay Government allowing such leave, and the Register* instituted by them in consequence of that order, may be cancelled. The other Registers proposed by the Government of Bombay, may be comprised in three Forms.

* No. 3.

1, For Sick Leave, under Section V. of the Uncovenanted Absentee Rules, dated 22nd February 1856.

1, For Private Affairs Leave, under Section VII., VIII., and IX. of the same rules and.

1, For Casual Leave, under the provisions of the Financial Resolution, dated 19th March 1858.

His Honor in Council accordingly directs, that the following three Forms, being the Bombay Forms modified, may be adopted by the several Local Governments and administrations, and introduced in all the Offices under their control:—

1st FORM.

Register showing the period of Absence of Members of the Establishment of drawing Rs. 100 a month and upwards, on Sick Leave under Section V. of the Uncovenated Absentee Rules, dated 22nd February 1856, for the year.

1	2	3	4												5	6												7
Names.	Salaries.	Cause and Section under which leave is Granted.	NUMBER OF DAYS ABSENT IN EACH OF THE FOLLOWING MONTH.												Total Number of days Absent in the year.	AMOUNT DEDUCTED FROM THE SALARY OF THE ABSENTEE, IN EACH OF THE FOLLOWING MONTHS.												REMARKS.
			January.	February.	March.	April.	May.	June.	July.	August	September.	October.	November.	December.		January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.	

2ND FORM.

Register showing the period of Absence of Members of the Establishment of drawing Rs. 100 *a month and upwards, under Sections VII. VIII. and IX. of the Uncovenanted Absentee Rules, dated 22nd February* 1856, *for the year.*

(The same statement as No. I.)

NOTE.—Colum 6 will of course be blank, when leave is given under Section VII.

3RD FORM.

Register showing the period of Absence of Members of the Establishment of drawing Rs. 10 *a month on casual leave, under the provisions of the Financial Resolution of the Government of India, dated* 19*th March* 1858, *for the year*

NAMES.	Salaries.	Number of days absent in each of the following months.												Total number of days absent in the year.	REMARKS.
		January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.		

In regard to Sick Leave and Private Affairs Leave granted to Ministerial Officers drawing less than Rs. 100 and more than Rs. 10 a month, His Honor in Council desires that a separate Register may be opened in the following Form, Register showing the period of absence of Members of the Establishment of drawing less than Rs. 100 and more than Rs. 10 a month on leave granted to them according to the spirit of the Uncovenanted Absentee Rules, dated 22nd February 1855, for the year

NAMES.	Salaries.	Number of days absent in each of the following months.												Total number of days absent in the year.	Amount deducted from the salary of the absentee in each of the following months.												REMARKS.
		January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.		January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.	

It does not appear to His Honor in Council to be necessary that the Heads of Offices should furnish the Civil Auditor with "a monthly statement of Leave of Absence of every description granted to Uncovenanted Servants, &c.," in addition to the monthly statement prescribed by the orders of this Government, dated 9th November last; but he is of opinion that the Bombay Civil Auditor's Form D., which is substantially the same as the form laid down in the orders of this Government, above referred to (except as regards the columns headed "Without Leave" and "Casual Leave on Private Affairs"), and which the Civil Auditor, Fort William, recommends to be generally introduced with some modifications (not specified) may, with advantage, be introduced in substitution of the form prescribed by the orders of the 9th November last. He desires, however, that the column headed "Casual Leave on Private Affairs" may be struck out of the statement.

The statement is as follows:—

D.

Monthly Statement of Leave of Absence of every description granted to Uncovenanted Servants drawning more than Rs. 10 *per mensem in the office of the for the month of*

Name of Absentee.	Office held by Absentee.	Monthly salary.	Without leave.	Sick leave under Sections IV. and V.	Private affairs under Section VIII.	Leave. Special leave on private affairs under Section IX.	Privilege leave under Section VII.	Causal leave on private affairs.	Casual leave for sickness.	Period of absence during the month.	Amount of deduction from the salaries.	Rate of deductions.	Name of substitute (if any.)	Amount payable to substitute.	Net amount to be retrenched from Pay Abstract for the above month.	Remarks.

With reference to the Column headed "Without Leave," His Honor in Council remarks, that "Absence without Leave" renders the absentee liable under Section II. of the rules to loss of appointment, with entire forfeiture of salary for the whole period of such absence; but this penalty will not always be enforced; and in cases in which it is not enforced, the absence shall not count in the period of the absentee's service.

The Alphabetical Register introduced in his office by the Civil Auditor at this Presidency, is highly necessary; but it ought, His Honor in Council thinks, to be in the following form:—

Annual Absentee Register of Uncovenanted Servants drawning more than Rs. 10 *a month in the year alphabetically arranged.*

Name of absentee.	Office held by absentee.	Monthly salary.	Absent. Without leave.	On sick leave under Section V.	On privilege leave under Section VII.	On private affairs leave under Section VIII.	On private affairs leave under Section IX.	On casual leave under the provisions of the Financial Resolution, dated 19th March 1858.	Remarks.

Adverting to the remark of the Civil Auditor, Fort William, that Uncovenanted "Servants can claim" Privilege Leave and Casual Leave, His Honor in Council desires that, that officer's attention be drawn to Section IX. of the Uncovenanted Absentee Rules, wherein it is distinctly explained, that no leave on private affairs is claimable as a matter of right; and to Para. I of the Financial Resolution, dated 19th March last, wherein it is stated, that Casual Leave may be granted by the Heads of the Offices at their discretion.

(Singed) C. H. LUSHINGTON.

Secretary to the Government of India.

NOTIFICATIONS.

No. 597.—25*th March* 1859.—The following Notifications, Nos. 18 and 19, issued by the Government of India, Financial Department, under date the 15th March, are re-published for general information: —

"No. 18.

"28*th February* 1859.—The following Extract (paragraph 68) from a Despatch from the Right Hon'ble the Secretary of State for India, No. 2 of 1859, dated 6th January, is published for general information: —

Reply to Financial Government letter, No. 112, *dated* 23*rd August* 1858, *reporting the Proceedings for the* 1*st Quarter of* 1858.

Para. 68.—As it appears that Civil Court Ameens appointed under the Act XII. of 1856, are remunerated by fixed monthly salaries, and that all fees connected with their employment are credited to Government, I see no reason for withholding from them the same benefit as regards Pensions as is recorded to other Members of the Uncovenanted Civil Service."

Paras. 279-280.—In the absence of any special order from the Court on the subject, have decided that service as an Ameen appointed under Act XII. of 1856, is not to count as service for Pension.

No. 19.

The following Extract (paragraphs 91 to 94) of Despatch, No. 2 of 1859, dated 6th January, from the Right Hon'ble the Secretary of State for India, is published for general information:—

Reply to Financial Government letter No. 112, *dated* 23*rd August* 1858, *reporting the Proceedings for the* 1*st Quarter of* 1858.

Para. 91.—On the vacation by Mr. Ross of his appointment as Magistrate and Collector of Ghazeepore, Mr. Bax was appointed to officiate for him; but before he had been employed for two months in that capacity, he was relieved by Mr. Brereton, a Civilian out of employ, who had to be provided for. Three weeks afterwards Mr. Brereton was appointed Magistrate and Collector at Goruckpore, and Mr. Bax was again directed to take charge of the District of Ghazeepore.

Paras. 365-366.—Have refused to allow Mr. J. Bax, Joint Magistrate and Deputy Collector of Ghazeepore, Deputation allowance for the first month of the second occasion on which he officiated as Magistrate and Collector of that District.

92—Under Section XXVII. of the Absentee Rules, which provides that "No Subordinate Officer acting for his principal or for any other person holding a superior appointment in the same Office or establishment at the same station, shall be entitled to "any Deputation allowance until after the expiration of one month," Mr. Bax was not granted Deputation allowance for the first month that he officiated as Magistrate and Collector; but your Government have also refused to pass Deputation allowance to him for another month after his re-appointment to the above capacity.

93.—The Civil Auditor remarks that the Rule above quoted "does not in his opinion deprive Mr. Bax of another month's Deputation allowance from the date he resumed charge of his officiating duties from Mr. Brereton," and that he does "not consider that the two periods into which his (Mr. Bax) officiating incumbency of the "Office of Magistrate and Collector of Ghazeepore was divided by the intermediate "appointment thereto of another Officer for the short space of three weeks, can be "properly regarded as two different cases."

94.—I concur in the opinion expressed by the Civil Auditor, that the rule above alluded to is intended to apply only when a principal or superior Officer is away from

his Station on leave or otherwise, and not on every occasion that the same subordinate may be appointed his *locum tenens* in the course of the same absence or deputation, and I authorize you to pass the Deputation allowance claimed by Mr. Bax for the second period of his officiating appointment.

NOTIFICATIONS.

No. 1346.—*7th May* 1859.—The following Notification, issued by the Government of India, Financial Department, under date 29th April last, No. 33, is re-published for general information:—

29th April 1859.—No. 33.—Read again the following papers, on the subject of the Deputation Allowance receivable by Convenanted Officers, Civil or Military, acting for Uncovenanted Officers, and *vice versâ*.

Order contained in the Financial Resolution, No. 5701, dated 8th October 1858.

Paragraph 4 of Financial Resolution, No. 1433, dated 11th February 1859.

Read the undermentioned papers on the same subject:

Letter from Civil Auditor, Fort William, No. 985, dated 4th instant.

Letter from the Punjab Civil Auditor, No. $\frac{31}{297}$ dated 23rd ultimo.

RESOLUTION.

His Excellency the Governor General in Council is pleased to pass experimentally for one year, the following Rules in respect to the Deputation Allowance receivable by the Officers mentioned below:—

When Covenanted Officers, Civil or Military, officiate for Uncovenanted Officers and when Uncovenanted Officers act for Covenanted Officers, Civil or Military, the Deputation Allowance, in such cases, will be regulated according to the principle laid down in Chapter VI., Sections 25, 26 and 27, of the Covenanted Civil Absentee Rules, it being understood however that Section 27 shall not apply to *Ministerial* Officers, acting for Covenanted Officers, who are entitled to Acting Allowance from the date they commence to officiate, and not after the expiration of one month, as in the case of other Uncovenanted Officers of superior grade.

When an Officer of the Uncovenanted Service acts for another of the same Service, or when a Military Officer acts for another Military Officer, he shall be governed by the Rules of the respective Services to which he belongs.

In passing the foregoing Rules, the Governor General in Council directs that the Audit Offices, in the several Presidencies and Governments, should submit, at the expiration of the experimental year, for which the Rules are sanctioned, a Return showing in juxta-position the amount forefeited by the Absentees of the Military (so far as it is concerned with the Civil Department) and Uncovenanted Services, as well as that defrayed in the remuneration of their Substitutes in the same manner as is done at present, with regard to the forefeited Salary and the Deputation Allowance of Covenanted Civil Servants.

ORDER.—Ordered, that a Copy of the foregoing Resolution be sent to the Civil Auditors, Fort William, Fort St. George, Bombay, and North Western Provinces, for information and guidance, and to the Punjab Civil Auditor, in reply to his reference above adverted to.

Ordered further, that a transcript of the Resolution be published in the Official *Gazette* for general information.

DOCKET No. 6741 OF 1859.—*From* C. H. LUSHINGTON, *Esquire, Secretary to the Government of India, to* G. E. W. COUPER, *Esquire, Secretary to the Government of the North Western Provinces, Financial.—Department. Dated Fort William, the 22nd July* 1859.

FORWARDS copy of a Notification published in reference to paragraphs 14 to 16, of a Despatch from the Right Hon'ble the Secretary of State for India, No. 33, dated

21st April 1859, directing that the rule laid down by the late Hon'ble the Court of Directors in paragraph 2 of their Despatch No. 24, dated 28th August 1844, (considering it objectionable in principle to grant allowances appointed as the remuneration for actual service, and to meet expenses, necessarily attendant thereon to an Officer on retirement) shall not be held to be applicable to Officers sanctioned only for a limited term.

No. 61.—*Notification.—Financial Department.—Fort William, the 22nd July* 1859.

READ paragraphs 14 to 16 of the Despatch from the Right Hon'ble the Secretary of State for India, No. 33 of 1859, dated the 21st April.

In confirmity with the instructions of the Right Hon'ble the Secretary of State for India, His Excellency the Right Hon'ble the Governor General in Council is pleased to direct, that the rule laid down by the late Hon'ble the Court of Directors in the 2nd paragraph of the Despatch, cited in the margin,* shall not be held to be applicable to Officers sanctioned only for a limited term.

* Paragraph 2nd of Despatch from the Hon'ble the Court of Directors, No. 24 of 1844, dated the 28th August.

"We consider it objectionable in principle to grant allowances appointed as the remuneration for actual services, and to meet expenses necessarily attendant thereon, to an Officer in retirement. In the case however of Individuals displaced by the abolition, or the consolidation with others of the offices they held, we shall not object to the continuance to the Officer, while he remains entirely unemployed, of such portion of his former salary as the circumstances of his case may appear to you to justify to an extent not exceeding two-thirds of its amount. The earliest opportunity must be embraced of appointing such Officers to a permanent situation, on succeeding to it, the allowance now authorized will cease; but if the emolument of the new appointment be inferior to that of the office previously held, you are at liberty to grant, if you think fit, the difference between the salaries of the two situations or any portion of it as an extraordinary allowance."

No. 6741.

Forwarded to the Government of the North Western Provinces.

No. 2068.—*Financial Department, the 17th August* 1859.

THE following correspondence, forwarded by the Secretary to the Government of India, in the Financial Department, is published for general information:—

No. 6215

Extract from the Proceedings of the Government of India, in the Financial Department, dated 12th July 1859.

Read again the following papers relative to the allowances of Military Officers in civil employ after their return from sick furlough from England:—

Financial letter to the Government of the North Western Provinces, No. 3073, dated 4th July 1856.

Financial letter to Civil Auditor, Fort William, No. 1964, dated 1st April 1858, with enclosure.

Financial Resolution, dated 30th June 1859, No.

Read the following papers on the same subject:—

Office Memorandum from the Officiating Junior Secretary to the Government of Bengal, No. 2198, dated 15th ultimo.

Financial Office Memorandum, sent to Military Department, No. 5048, dated 20th idem.

Reply from Military Department, No. 1267, dated the 29th idem, with its enclosure, being an extract from the Court's Despatch noted below.

Ordered, that a copy of paragraph 3 of the late Hon'ble Court's Despatch in the Military Department, No. 171, dated 15th October 1856, fixing the period from which a Military Officer on Staff or Civil employ, returned from leave beyond sea, can be allowed to draw his Staff allowances; and further, that a copy of the Office Memorandum from the Military Department, stating that the rule above laid down by the Hon'ble Court, is still in force, be sent to the Government of Bengal, in reply to the reference from that Government, above adverted to.

Ordered, further, that copies of the above-mentioned papers be sent to the Government of the North Western Provinces, in supercession of the orders contained in paragraph 2 of the letter from this Department, No. 3073, dated 4th July 1856.

Ordered, also, that transcripts of the above papers be sent to the Civil Auditor, Fort William, with reference to previous communications on the subject.

Ordered, moreover, that copies be sent to the Civil Auditors, Madras, Bombay, North Western Provinces, and the Punjab, for information and guidance.

Nos. 56 and 590 of 1859.—*From* J. A. Loch, *Esquire, Officiating Civil Auditor of the North Western Provinces, to* G. E. W. Couper, *Esquire, Secretary to the Government of the North Western Provinces.—Financial Department. Dated Allahabad, the 30th June* 1859.

With reference to the fact of Railway travelling having been established between Allahabad and Cawnpore, I have the honor to request that you will obtain for me the orders of the Honorable the Lieutenant Governor, as to the course to be adopted in the Audit of Bills for travelling allowance; as I do not suppose that it can be intended to continue the present rates of 8 annas a mile for Covenanted, and 4 annas a mile for Uncovenanted Officers, in the cases of transit between the two stations mentioned.

2nd.—It would in my opinion be fair, if for such journeys the actual expenses were allowed.

No. 2136 of 1859.—*From* F. B. Outram, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to the Secretary to Government of Bengal.—Financial Department, Fort William. Dated Allahabad, the 16th July* 1859.

I am directed to request that, with the permission of the Hon'ble the Lieutenant Governor of Bengal, information may be communicated to this Government as to the rule which obtains within the Lower Provinces regarding the amount of travelling allowance to be drawn by servants of Government travelling by Railway on the Public Service.

No. 1862 of 1859.—*From Lord* H. U. Browne, *Under-Secretary to Government of Bengal, to* F. B. Outram, *Esquire, Officiating Under-Secretary to Government, North Western Provinces.—Revenue Department. Dated Fort William, the 29th July* 1859.

I am directed to acknowledge the receipt of your letter No. 2136, dated the 16th instant, and in reply to forward for the information of the Hon'ble the Lieutenant Governor of the North Western Provinces, a copy of a Circular No. 36, dated 6th August 1856, together with a copy of the rules referred to therein, prescribing the rates of travelling allowance to be drawn by public Officers subordinate to this Government when travelling on duty by Railroad.

CIRCULAR No. 36 of 1858.—*From C. T. Buckland, Esquire, Junior Secretary to the Government of Bengal, to the Commissioner of Circuit, Board of Revenue, Sudder Court, Director of Public Instruction, Inspector of Jails, Medical Board, Deputy Surveyor General, Railway Commissioner.—Judicial Department.—Dated Fort William, the 6th August* 1858.

I AM directed by the Lieutenant Governor to forward for your information and guidance, and for communication to the Officers subordinate to you, the accompanying copy of an order passed by the Lieutenant Governor, regarding the rate of travelling allowance to be drawn by public Officers travelling by Railway when on duty.

ORDER.—Whenever an Officer of any Department travelling on duty is entitled to draw travelling allowance reckoned by mileage, and he travels the whole distance, or any portion of the distance by Railroad, he shall charge for such distance at the rate of 3 annas a mile only, if he is an Officer entitled to charge ordinarily at the rate of 8 annas or upwards per mile, and at the rate of 1½ anna per mile only, if he is an Officer entitled to charge ordinarily at a rate below 8 annas.

NOTIFICATION.

No. 2855 of 1859.—*Financial Department, North Western Provinces.—Dated Allahabad, the 26th August* 1859.

THE Hon'ble the Lieutenant Governor is pleased to direct the adoption in the Provinces subject to this Government of the following rules, (which are in force in Bengal) regulating the amount of travelling allowance to be drawn by Officers proceeding by Railway on the Public Service:—

Whenever an Officer of any Department travelling on duty is entitled to draw travelling allowance reckoned by mileage, and he travels the whole distance, or any portion of the distance by Railroad, he shall charge for such distance at the rate of 3 annas per mile only, if he is an Officer entitled to charge ordinarily at the rate of 8 annas or upwards per mile, and at the rate of 1½ anna per mile only, if he is an Officer entitled to charge ordinarily at a rate below 8 annas.

FOREIGN DEPARTMENT.

RESOLUTION.

No. 996.—13*th April* 1859.—The following Resolution, passed by the Government of India, in the Financial Department, No. 2292, under date the 11th ultimo, is published for general information:—

No. 2292.

Extract from the Proceedings of the Government of India, in the Financial Department, under date the 11*th March* 1859.

Read the following:—

No. 120.—*Office Memorandum.—From the Officiating Under-Secretary to the Government of India, Public Works Department, to the Secretary to the Government of India, Financial Department.—Dated Fort William, the* 10*th January* 1859.

In forwarding to the Financial Department the accompanying letter from the Secretary to the Chief Commissioner of the Punjaub, with the papers noted in the margin,* regarding a claim preferred by Captain Thompson, of the Invalid Establishment, for remuneration on account of his services as Cashier of the Hill Roads, Department of Public Works, the undersigned would observe, that the case involves a general principle applicable to all Departments, and therefore refers the matter to the Secretary in the Financial Department, for consideration and orders.

* Secretary, Chief Commissioner, Nos. 321 to 1766, dated 29th October 1858, with one enclosure, and demi-official letter from Officiating Chief Engineer, Punjaub.
Construction, 24th July 1857, Nos. 14 to 18, and a K. W.
" 8th January 1858, Nos. 65 to 67.
" 30th April 1858, Nos. 39 and 40.
(To be returned.)

Nos. 321 *to* 1766.—*From R. Temple, Esquire, Secretary to Chief Commissioner for the Punjaub, to Captain H. Yule, Officiating. Secretary to the Government of India, with the Governor General.—Dated Lahore,* 29*th October* 1858.

Public Works, General Establishment.

I am directed to forward, for the consideration and orders of the Right Hon'ble the Governor General, copy of a letter No. 2906, dated 13th instant, from the Officiating Chief Engineer.

2.—Captain Thompson, an Officer on the Invalid Establishment at Simla, was, with the concurrence of the Chief Engineer, appointed by Captain Briggs, the Cashier of the Hill Roads Division of Public Works, on a salary of Company's Rs. 100 per mensem. But by Government Resolution in the Financial Department, of the 8th January last, it is ruled that the Military allowances of retired Officers in Civil employ shall be merged in their Civil allowances. In this particular instance, however, Captain Thompson's Military allowances exceed his Civil allowances; and by the application of the foregoing Resolution, he would not be entitled to any extra pay for performing the duties of Cashier.

3.—The Chief Commissioner would observe, that in the first instance this appointment seems to have been made without due authority, inasmuch as in the new Code the highest rate of salary allowed for a Cashier is but Rs. 50 per mensem. But still the Chief Commissioner considers that Captain Thompson is undoubtedly entitled to some remuneration for the trouble and expense entailed on him in performing the duties of Cashier to the Hill Road Division.

No. 2906.—*From Lieutenant Colonel E. L. Ommanney, Officiating Chief Engineer, Punjaub, to R. Temple, Esquire, Secretary to the Chief Commissioner, Punjaub.—Dated Lahore,* 13*th October* 1858.

CENTRAL OFFICE OF ACCOUNT.

CAPTAIN THOMPSON, of the Invalid Establishment, was appointed by Captain Briggs to fill the place of Cashier of his Division, and his appointment was approved by the Officiating Chief Engineer, and communicated in letter No. 1533, dated 1st July 1858.

2.—The first charge for his salary appeared in Captain Briggs' muster roll for July 1858, and was retrenched by this Office for want of a certificate, shewing the amount of his monthly pension, to enable this Office to make the deduction prescribed by Government in Resolution No. 88, dated 8th January 1858.

3.—Lieutenant Houchen, Officiating Superintendent, Hill Roads, in his letter No. 287, dated 7th ultimo, (copy of which is herewith annexed) requests sanction to submit a contingent bill for Rs. 200, on account of Captain Thompson's allowance as a Cashier for July and August 1858, and solicits further instructions on this matter, as Captain Thompson cannot be expected to perform the duties of Cashier without remuneration.

4.—The case is a peculiar one, and is not provided for in the Government Resolution referred to, as Captain Thompson's pay, as an Invalid Officer, is greater than his allowance of Rs. 100 as a Cashier. It is therefore submitted for the orders of the Chief Commissioner, or if necessary, for those of the Supreme Government.

From Lieutenant Colonel E. L. Ommanney, Officiating Chief Engineer, Punjaub, to Captain H. Yule, Officiating Secretary to the Government of India, with the Governor General.—Dated Lahore, 15*th November* 1858.

IN reply to your note, asking under what circumstances Captain Briggs was allowed to appoint Captain Thompson of Invalids, a Cashier at Rs. 100 a month, you will find on reference to the tabular statement sanctioned by the President in Council, dated 27th April 1858, Public Works Department, Fort William, that a Cashier on Rs. 100 a month was included both in the present and proposed scale, the present scale having been previously sanctioned in Financial Department of Government of India's No. 5360, of 18th December 1857. A Mr. Primrose, and afterwards Captain Thompson were employed as Cashiers, until the stoppage of work about May 1857, when the latter's services were dispensed with by Captain Briggs, and were not again made use of until he received the orders for resumption of work on the Dugshaie Tunnel. As this work has again been suspended until the receipt of revised estimate for increasing the width of the Tunnel to fifteen feet, Captain Thompson's services have again been dispensed with. The system, as personally explained to me by Captian Briggs, of having a well-paid Cashier to go over the road and works once a week to pay all the work people, answered well. Captain Briggs, I may here mention, had no treasure chest, treasurer, or even cash book in the ordinary acceptation of the term, but banked with the Deputy Commissioner at Simla, who cashed all his drafts; and this is the system which I should like to see introduced in the Punjaub generally, by which we should be able to do away with all Executive Engineers' treasurers and treasure guards, as has lately been proposed in Bengal.

I will take care that letters from this Office are more explanatory in themselves in future.

FINANCIAL DEPARTMENT.—RESOLUTION.

Under the circumstances stated in the letter from the Secretary to the Government of the Punjaub, No. 321, dated the 29th October last, the Governor General in Council is pleased to permit Captain Thompson, of the Invalid Establishment at Simla, to draw from the Civil Department, for the period during which he performs the duties of Cashier of the Hill Roads, Division of Public Works, the salary of which appointment is less than the Military allowances of Captain Thompson, one-third of such salary in addition to his Military allowances.

As regards the general principle which the present case involves, and which is adverted to by the Public Works Department in its Office Memorandum No. 120, dated the 10th ultimo, the Governor General in Council remarks, that cases of this kind (in which the salary of the appointment in which the Invalid Officer may be acting is less than his Military allowances) will always be determined on their merits, on the understanding that the remuneration to be paid to an Invalid Officer employed in the Civil Department in addition to his Military allowances, shall never exceed one-third of his salary of the office to which he may be nominated.

Copy forwarded to the Public Works Department, for communication to the Government of the Punjaub.

Copy forwarded to the Departments,* Governments,† and Officers,‡ for information and guidance.

* Foreign, Home, and Military.
† Bengal, North Western Provinces, Fort St. George, and Bombay.
‡ Civil Auditors, Fort William, Fort St. George, Bombay, Agra, and Punjaub.

(A true Extract.)

(Signed) C. H. LUSHINGTON,

Secretary to the Government of India.

By Order of the Hon'ble the Lieutenant Governor, North Western Provinces.

F. B. OUTRAM,

Offg. Under-Secy. to Govt., N. W. P.

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BENGAL SECRETARIAT LIBRARY

ORDERS OF THE GOVERNMENT,

NORTH WESTERN PROVINCES,

FOR 1859.

PUBLIC WORKS DEPARTMENT.

CIRCULAR No. *From* C. BEADON, *Esquire, Secretary to the Government of India, Home Department, to* .—*Dated the* 11*th January* 1859.

IT has become the practice in many of the public offices in the several Presidencies, and at the seat of the Supreme Government, to print official letters and papers instead of copying them in manuscript.

2.—Persons seeing an official document in print are apt to suppose that it has been published, and that they are at liberty to use it accordingly, or at any rate to be careless whether its contents become generally known or not. This is a mistake.

3.—Official papers, whether printed or copied by hand, are of a confidential character, and are not to be published, except by order of competent authority, and under the prescribed rules. The same precautions are to be taken in either case against their publication, and in either case the infraction of the existing prohibition is equally culpable.

4.—I am directed by the Hon'ble the President in Council to request, that instructions to this effect may be generally circulated.

Ordered, that the foregoing letter be forwarded to the Departments noted in the margin,* for the purpose indicated.

* Nos. 127, Foreign Department; 128, Military Department; 129, Financial Department; 130 Public Works Department.

No. 256.—*Public Works Department.—Dated Fort William, the* 19*th January* 1859.

Copy forwarded to the Government of the North Western Provinces, for information, and for communication to the Chief Engineers under their authority.

CIRCULAR No. 364.—*From Major* R. STRACHEY, *Officiating Secretary to the Government of India, to* W. MUIR, *Esquire, Secretary to the Government of the North Western Provinces.—Public Works Department.—General Establishment.—Dated Fort William, the 22nd January* 1859.

IN accordance with a resolution passed in the Financial Department, No. 155, of the 14th January 1859, the Hon'ble the President in Council is pleased to direct, that leave to visit the Presidency preparatory to furlough, shall only be granted to Military Officers of the Public Works Department, to the extent of four, six, or eight weeks, according as the distance travelled, shall not exceed 300 or 600 miles, or be in excess of the last-mentioned distance.

CIRCULAR No. 499.—*From Major* R. STRACHEY, *Officiating Secretary to the Government of India, to* W. MUIR, *Esquire, Secretary to the Government of the North Western Provinces.—Public Works Department.—General Public Works.—Dated Fort William, the 28th January* 1859.

THE Right Hon'ble the Secretary of State for India has observed in a recent report by the Chairman of a projected Railway Company, a quotation from a letter from an Officer in the Public Works Department, on the project in question. His Lordship observes that this Officer was probably not aware of the use to which his letter would be applied, but that it is very desirable that Officers in the service of Government, especially those who are in a position which adds weight to their opinions, should abstain from entering into a correspondence with the projectors of schemes which have been referred for the consideration of the Government of India, or from expressing in any way opinions which may be employed by the Directors of Companies in England, to gain the support of the public to their proposed undertakings. The Right Hon'ble the Secretary of State desires that these views may be promulgated and acted on by all Officers.

CIRCULAR No. *Public Works Department.—General Establishment.—Dated Fort William, the 21st February* 1859.

WITH a view to obviate the inconvenience that, under existing rules, may arise from the absence, on privilege leave, of Executive Officers without a previous communication with the Civil and Military Authorities of their stations, the Government of India deems it necessary to direct that, for the future, an Executive Officer or an Assistant, when forwarding his application for leave to the Departmental Authorities, shall state that he has ascertained from the principal public Officers of other Departments in his Division, that his absence is not likely to be attended with any inconvenience to the public service.

No. 994.—*Public Works Department.—Dated Fort William, the 21st February* 1859.

Copy forwarded to the Government of the North Western Provinces, for information and guidance.

CIRCULAR No. 6446.—*From* MAJOR R. STRACHEY, *Officiating Secretary to the Government of India, to* W. MUIR, *Esquire, Secretary to the Government of the North Western Provinces.—Public Works Department.—Dated Fort William, the* 21*st December* 1858.

GREAT irregularities and delays being of constant occurrence in the submission of the Periodical Returns called for by the Government of India in this Department, I am directed to request that they may hereafter be despatched with strict punctuality on the dates noted in the margin.*

ANNUAL.	
I. Return of entire Establishments as on the books of the Department on the 1st May, showing the names of all persons, Europeans, East Indians, or Natives, in receipt of Rs. 10 a month or upwards. In duplicate one copy to Department of Public Works, one copy to Financial.	To be submitted on or before 1st June.
II. Part I.—Return of the Superior grades of Uncovenanted servants. To include all Europeans and East Indians of whatever grade or rate of pay. For Financial Department only.	15th June.
II. Part II.—Return of the superior grades of the Native Uncovenanted Servants, including only the Engineer or Upper Subordinate Establishments, and those who have been placed in the classified Lists in the *Government Gazette* as holding equal Departmental rank with Officers of those Establishments. For Financial Department only.	15th June.
III. Report on the conduct of the Upper Subordinates. For Department of Public Works only. (Code Form No. 2.)	15th June.
HALF-YEARLY.	
I. Distribution Return of the Engineer and Upper Subordinate Establishments. For Department of Public Works only. (Code Form No. 134.)	1st June and 1st December.
II. Reports of recommendations for promotion of Officers of the Engineer and Upper Subordinates. For Department of Public Works only. (Code Form No. 135.)	15th December and 15th June.

2nd.—The Departmental Salary bills which are sent monthly to the Chief Engineer for pre-audit, should enable him to prepare the Yearly Return No. 1, and the Half-yearly Return No. 1, within a week of the end of the half year. And timely calls should be made on Executive Engineers for the information necessary to enable the Central Office to complete the Yearly Return No. 2 with the least possible delay.

3rd.—The Chief Engineers should be held personally responsible for any neglect of these orders.

4th.—It is requested that Office-rent may not be entered in the Annual Returns submitted in future. These being Returns of Establishments only, such entries are incorrect.

CIRCULAR No. 1004.—*From* LIEUT.-COLONEL H. YULE, *Officiating Secretary to the Government of India, to* E. C. BAYLEY, *Esquire, Officiating Secretary to the Government of the North Western Provinces.—Public Works Department.—General Establishment.—Dated Fort William, the* 22*nd February* 1859.

IN continuation of No. 6446 of the 21st December last, I am directed to request that, the additions indicated in the margin* may be made in the heading of the 1st and 2nd columns of the Form No. 3, Annual Report on the conduct of the Upper Subordinates, and that care may be taken that the dates inserted in Returns are correct.

* Name, Military Rank and Corps.	Department, Rank and date attaining it.
Deacon, Sergeant J., Artillery.	Supervisor, 28th April 1858.
Durrant, Sergeant E., Sappers and Miners.	Supervisor, 30th October 1857.

No. 997.—*From* MAJOR F. ATKINSON, *Deputy Military Secretary to the Government of India, to the Secretary to Government, North Western Provinces.—Military Department.—Dated Fort William, the 23rd March* 1859.

WITH reference to your letter No. 363 A., of the 30th December 1858, I am desired to acquaint you, for the information of the Hon'ble the Lieutenant Governor, North Western Provinces, that His Excellency the Governor General in Council sanctions the transfer to the Civil Authorities of the Ferries at Sidhoura and Turnbull Gunge, as also of the Sultanpore Cantonment lands, on the understanding with regard to the latter, that if Sultanpore should be permanently occupied as a Military Station, the management of the Cantonment lands should revert to the Military Authorities.

2.—The enclosures received with your letter are herewith returned.

No. 700.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to* F. B. GUBBINS, *Esquire, Commissioner of Benares Division.—Public Works Department.—Dated Allahabad, the 14th April* 1859.

I AM directed by the Hon'ble the Lieutenant Governor to forward copies of the letters marginally* noted, and to request that you will take the necessary steps for transferring the management of the Ferries at Sidhowra and Turnbull Gunge, as also the lands of the Sultanpore Cantonment to the Civil Authorities.

* Letter to Government of India, No. 363 A., of 30th December.
Reply, No. 997, dated 23rd March.

No. 2510.—*From* LIEUT.-COLONEL H. YULE, *Secretary to the Government of India, to the Secretary to the Government, North Western Provinces.— Public Works Department.— General Establishment.—Dated Fort William, the 21st April* 1859.

THE letter of which a copy is enclosed (No. 3128 of 26th June 1857) was nearly two years ago addressed to the Governor General's Agent in Central India, but from the circumstances of the times, did not reach him till long afterwards, and has never been acted on.

2*nd*.—Many changes have occurred since this letter was issued, which induce the Governor General in Council to modify the intention then expressed.

3*rd*.—From the letter now addressed to the Agent, of which a copy is also enclosed, it will be seen that the Governor General in Council desires that the Gwalior Division Department of Public Works, should, for the present at all events, be administered by the Government of the North Western Provinces through the Chief Engineer, like any other division actually within the limits of the Provinces.

No. 3128.—*From* COLONEL W. E. BAKER, *Secretary to the Government of India, to the Acting Agent to the Governor General, Central India.—Public Works Department.—Military.—Dated Fort William, the 26th June* 1857.

THE administration of the Public Works Department in the Gwalior Division is at present anamalous. The Executive Engineer is professionally under the Chief Engineer of the North Western Provinces, but the latter Officer communicates direct on all subjects relating to Gwalior with the Government of India. There is consequently an absence of that local check on the operations of the Department which is elsewhere exercised by the head of the local Government. It has occurred to the Right Hon'ble

the Governor General in Council, that it would be a more convenient arrangement to invest you with the general powers of a Commissioner of a Province in respect to the Public Works operations in the Gwalior Territory, and to those Miscellaneous Engineering works appertaining to the Residencies, &c., in Central India, which are now under no definite control.

2*nd*.—Under such an arrangement, the Chief Engineer of the Saugor and Nerbudda Territories would most conveniently be selected as your professional adviser, and the accounts, estimates, &c., would be sent to him for preliminary check before being submitted for your opinion. From you all necessary references would be made to the Government of India.

3*rd*.—As regards the Annual Budget and Progress Report, and as regards the sanction of petty works, or emergencies, repairs, &c., you would be invested with powers similar to those given to a Commissioner of a Province such as Nagpore.

4*th*.—Before coming to a final decision on this subject, the Governor General in Council will however be glad to hear your opinion upon it, and I am to request that you will take the first convenient opportunity for expressing your views on the question.

No. 2509.—*From* LIEUT.-COLONEL H. YULE, *Secretary to the Government of India, to the Governor General's Agent, Central India.—Public Works Department.—General Establishment.—Dated Fort William, the* 21*st April* 1859.

I AM directed by the Governor General in Council to acknowledge your letter No. 64 of the 11th February.

2*nd*.—In doing so, His Excellency in Council directs me to observe, that since the issue of Colonel Baker's letter of 26th June 1857, great and various changes have taken place, which induce him to modify the intention then intimated.

3*rd*.—Mhow and the adjoining portions of the Agra and Bombay road have been transferred to the Bombay Department of Public Works. The Chief Engineer of the Saugor Territory is now severed from all connexion with Mhow, or Indore, whilst Gwalior, both from its geographical position and its departmental relations is in close connexion with the North Western Provinces.

4*th*.—It seems, therefore, to His Excellency in Council desirable, at least for the present, that the Gwalior Division of Public Works should be placed definitely under the Government of the North Western Provinces. The Honorable the Lieutenant Governor will be informed accordingly.

5*th*.—This will not of course affect the position of the Executive Engineer of the Agra and Bombay road in Scindia's Territories, who will, as heretofore, receive his instructions through you.

No. *Extract from the Proceedings of the Right Hon'ble the Governor General of India in Council.—Public Works Department.—Military Cantonments.—Dated Fort William, the* 5*th May* 1859.

READ Extract from the Proceedings of Government, in the Military Department, No. 1429, dated 30th March 1859, forwarding letter from the Officiating Quarter Master General of the Army, No. 1032 A., dated 10th idem, relative to the repairs of roads and drains in Cantonments.

OBSERVATIONS.—In September 1856, His Excellency the Governor General in Council sanctioned the employment experimentally, upon a fixed monthly allowance of an establishment for keeping in repair the cantonments, roads and drains in certain stations in these Provinces.

2*nd*.—The Punjaub Government forwarded, recently a revised estimate* for permanent sanction, and it appears that His Excellency the Commander-in-Chief concurring altogether in the plan proposed, which has been tested and found to work well, and recommends the general adoption of the system.

	Per Mensem.
* Umballah, ...	200
Ferozepore, ...	200
Sealkote, ...	200
Beshawur, ...	200
Jullundur, ...	150
Mooltan, ...	150
Rawul Bindee, ...	150
Umritsur, ...	100
Jhelum, ...	100
Nowshera, ...	100
Meen Meer, ...	200

3*rd*.—The Governor General in Council in sanctioning the foregoing estimate remarked, that the charge cannot be properly termed Establishment. It is a fixed allowance for certain work to be done, for which it is convenient to take sanction in the form of a monthly payment rather than in the shape of an estimate for quantities of work to be executed. The Engineers should, nevertheless, account for the expenditure by a statement of work done, and the bills should be submitted at the end of the ear, with other documents that have to be revised in like manner.

Resolution.—The Governor General in Council concurs in the suggestion by His Excellency the Commander-in-Chief, that the system introduced in the Punjaub should be extended to all the Military stations in the Bengal Presidency, and desires that steps should be taken to fix the amount of the monthly charge for each station as suggested by His Excellency the Commander-in-Chief.

Ordered, that the foregoing be communicated to the Military Department, with a request that, the necessary orders be issued to convene Committees as suggested in the Quarter Master General's letter.

Ordered also, that copies of the foregoing Extract of Proceedings be communicated to the Local Governments noted in the margin,* for information and guidance.

* Punjaub, Oude, Bengal, Pegu, North Western Provinces, Nagpore.

Public Works Department, Fort William, 5th May 1859.

Copy forwarded to the Government of the North Western Provinces, as above.

No. 8528.—*From* Lieut.-Colonel A. Cunningham, *Chief Engineer, North Western Provinces, to* E. C. Bayley, *Esquire, Officiating Secretary to Goverment, North Western Provinces, Allahabad.—Dated Agra, the* 26*th March* 1859.

I have the honor to request, that you will be good enough to obtain the orders of Government on the following question:—

With reference to the present want of qualified subordinates in the Department Public Works, can men who pass the prescribed examination be appointed to the superior grades in the Upper Subordinate Establishment, or is it the intention of Government to adhere to the rule (new Code, page 15, paragraph 26,) which directs that no one will be admitted into the Department otherwise than by entering as a Probationary Assistant Overseer.

2*nd*.—A Mr. Law has applied for admission into the Department Public Works as a Supervisor, and hence this reference.

No. 717.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to Lieutenant Colonel* H. YULE, *Secretary to the Government of India.—Public Works Department.—Dated Allahabad, the 15th April* 1859.

I AM desired by the Honorable the Lieutenant Governor to forward for submission to the Right Hon'ble the Governor General in Council, the accompanying copy of a letter No. 8528, dated 26th ultimo, from the Chief Engineer, North Western Provinces, in which a question is raised as to the indispensability of candidates for admission to superior grades in the Department, first passing through that of Probationary Assistant Overseer.

No. 2883.—*From* LIEUT.-COLONEL H. YULE, *Secretary to the Government of India, to the Officiating Under-Secretary to Government, North Western Provinces.—Public Works Department.—General Establishment.—Dated Fort William, the 5th May* 1859.

IN reply to your letter No. 717, dated 15th ultimo, relative to a question raised as to the indispensibility of candidates for admission to superior grades in the Department of Public Works; first, passing through that of Probationary Assistant Overseer, I am directed to state, that where the candidates are possessed of previous experience in Engineering work, and of such qualifications as justify their pretensions to a higher grade, they may be admitted as has been necessarily done in the case of subordinates sent out from England, who have taken rank at once as Sub-Engineers of the 2nd or 3rd Class; but in such cases the appointments should be temporary for 6 or 12 months; in order to test the candidate's real value, and caution should be exercised in making recommendations of this kind. Men who have never done any executive work, should not be admitted, except as Probationary Assistant Overseers.

No. 2446 of 1858-59.—*From* CAPTAIN W. E. MORTON, *Engineer, Officiating Superintendent General of Irrigation, to the Secretary to Government, North Western Provinces.—Dated Roorkee, the 24th February* 1859.

I HAVE the honor to submit, for the consideration of His Honor the Lieutenant Governor, a letter from the Superintendent Northern Division Ganges Canal, No. 166, of 22nd instant, recommending that the Zillahdars of the Canal Department should be placed on the same footing as regards pay and travelling allowance with 1st Class Sub-Overseers.

2nd.—Zillahdars are a class of servants peculiar to the Irrigation branch of the Department Public Works, and have not been entered on the classified list shown in page 2 of the New Code, although it has been subsequently ruled that they are to have honorary rank with Assistant Overseers. They receive a fixed salary of Rs. 50 without travelling allowance, and with no prospect of increase in their own line of duties. Their responsibilities involving large sums of money realized on account of Canal Revenue are fully as great as those of Sub-Overseers, and there is the same necessity in both cases of moving constantly from place to place. It is not surprising therefore that intelligent men prefer the better-paid appointments of 1st Class Sub-Overseers, who after 10 years' service are entitled to Rs. 60 per month, and who at all times receive a monthly travelling allowance of Rs. 15.

3rd.—I would beg to recommened, that Zillahdars without being graded in the Department may be permitted under the usual rules to draw single or double horse-allowance, and that deserving men after 10 years' service may receive an addition of Rs. 10 per month; this would place the prospects of this class on a par with those of Sub-Overseers, and render equally good men available for both situations.

No. 166 of 1858-59.—*From Major* H. DRUMMOND, *Superintendent, Northern Division Ganges Canal, to Captain* W. E. MORTON, *Officiating Superintendent General of Irrigation, North Western Provinces.—Dated Roorkee, the 22nd February* 1859.

I HAVE the honor to bring to your notice, that in Government Notification No. 117, dated the 17th June 1856, no provision appears to have been made for the Zillahdars of the Canal Department.

2nd.—If it is intended that they should be included among the Lower Subordinate Establishment, I would suggest that they should rank as Sub-Overseers of the 1st grade 1st Class with double horse allowance.

In this division there are 4 Sub-Overseers in the main Canal receiving Rs. 60 a month, while the Zillahdar receives Rs. 50. The rank of the latter is superior, and his duties not less important, and I beg therefore to recommend that his pay be increased to Rs. 60 a month, and that he be allowed travelling allowance at the rate of Rs. 15 a month, under paragraph 3, Section 3, Chapter XV. of the new Code. His charge extends over fifty miles of the main Canal, and about 190 miles of Rajbuhas. He actually keeps 2 horses, and cannot efficiently perform his duties without them.

No. 521.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces, to the Secretary to Government of India.—Public Works Department.—Dated Allahabad, the 30th March* 1859.

I AM directed by the Hon'ble the Lieutenant Governor to forward the accompanying copy of a letter No. 2446, dated 24 ultimo, with enclosures, from the Officiating Superintendent General of Irrigation, with the following observations :—

2nd.—Captain Morton's proposal appears to His Honor to be quite just and reasonable, although the honorary rank assigned to the Zillahdars is superior to that of a Sub-Overseer of the 1st Class, although his duties are no less onerous and responsible, his emoluments are smaller, and his prospects in the Department less encouraging. He receives no travelling allowance, notwithstanding that, from the extent of his charge and the nature of his duties, he must be constantly moving from place to place, and must keep one or more horses. He has no assurance, as has the Sub-Overseer of an increase to his salary after 10 years of approved service, and can expect no promotion in his own special line.

3rd.—The labors and responsibilities of the Zillahdars being at least equal with those of the Sub-Overseer of the 1st Class, it is just that his emoluments should be equal, and it is also expedient that the office should be put upon a better footing, in order that men should not be withheld from seeking it by reason of the greater attractions, which the appointments of Sub-Overseers hold out to them.

4th.—But as the proposal of the Superintendent General of Irrigation would, if acted upon, have the effect of altering in some measure the classification of the Lower Subordinate Establishment; and as it will necessitate a modification of the standing rules of the Department as well as increased expenditure, the Lieutenant Governor must refer the matter for the consideration of the Government of India, with his recommendation that the proposal be sanctioned.

No. 2751.—*From* LIEUT—COLONEL H. YULE, *Secretary to the Government of India, to the Officiating Under-Secretary to Government, North Western Provinces.—Public Works Department.—General Department—Dated Fort William, the 30th April* 1859.

I AM directed to acknowledge your letter No. 521, dated 30th ultimo, and in reply to inform you, that the Governor General in Council has consented that the Zillahdars

of the Canal Department, shall be placed on the same footing as regards pay and allowances, as the 1st Class of Sub-Overseers.

2nd.—But I am to remark, if the Sub-Overseers draw Rs. 15 a month travelling allowance, their doing so appears to be an error. Under the Code the allowance in question is granted, when no provision for their shelter has been made, but only half of the amount when shelter is provided. The Canal Chowkies, it is supposed, are available for the shelter of the Native as well as the European Establishment. An explanation in this point is requested.

No. 376 of 1859-60.—*From* CAPTAIN W. E. MORTON, *Engineers, Officiating Superintendent General of Irrigation, North Western Provinces, to Secretary to Government of the North Western Provinces. Dated Roorkee, the 7th June* 1859.

WITH reference to the remark contained in the 2nd paragraph of Colonel Yule's letter to your address, No. 2751, of the 30th April 1859, received with your docket No. 1219 of the 1st current, I have the honor to explain, that the rule limiting the travelling allowance of Sub-Overseers to Rs. 7-8-0 per mensem, when shelter is provided at the Government expense, is perfectly understood, and acted up to in this Department. In the cases of the Sub-Overseers of the 1st Sub-Division, Northern Division Ganges Canal, whose charges are of short lengths, no travelling allowance at all is given. The few who draw Rs. 15 per mensem, are almost exclusively out in Rajbuha lines, and are precluded from availing themselves of the Government Chowkies.

2nd.—In circulating the orders of Government respecting Zillahdars to the Superintendents of divisions, I have directed that:—

"Except when you can certify that Zillahdars or Sub-Overseers are wholly pre-
"cluded from availing themselves of the shelter afforded by the Canal Chowkies, these
"Subordinates are only entitled to draw Rs. 7-8-0 per mensem as travelling allowance."

And trust under this rule that the spirit of the Government orders will be fully acted up to.

No. 1836.—*From* G. COUPER, *Esquire, C. B., Secretary to the Government of the North Western Provinces, to Lieutenant Colonel* H. YULE, *Secretary to the Government of India, Public Works Department. Dated Allahabad, the* 23*rd June* 1859.

I AM directed by the Honorable the Lieutenant Governor to acknowledge the receipt of your letter No. 2751, dated 30th April last; in the second paragraph of which you remarked, that the granting of Rs. 15 a month travelling allowance to Sub-Overseers of the Canal Department, appeared to be an error; as under the Code the allowance in question is assigned in full, when no provision for their shelter has been made, and only half of it when shelter is provided, and you requested a report as to whether the Canal Chowkies were not available for the shelter of the Native as well as European Establishment.

2nd.—In reply, I am desired to forward, for the information of His Excellency the Governor General in Council, the accompanying copy of a letter No. 376, dated 7th instant, from the Officiating Superintendent General of Irrigation, explaining that the rule limiting the travelling allowance of Sub-Overseers to Rs. 7-8-0 per mensem, when shelter is provided at the Government expense, is perfectly understood, and is acted up to in his Department, and that in the cases of the Sub-Overseers of the 1st Sub-Division, Northern Division Ganges Canal, whose charges are of short lengths, no travelling allowance at all is given. The few who draw Rs. 15 per mensem, are almost exclusively out in Rajbuha lines, and are precluded from availing themselves of the Government Chowkies.

No. 208.

Extract from the Proceedings of His Excellency the Governor General in Council, in the Military Department, under date the 4th May 1859.

No. 536 A.—*From Lieutenant Colonel J. D. Macpherson, Officiating Quarter Master General of the Army, to Secretary to Government, Military Department.—Quarter Master General's Office, Head Quarters Camp Delhi. Dated the 8th April* 1859.

In reply to your letter No. 659 of the 16th March, I am directed to say, that Lord Clyde considers the practice of burning fires in European Barracks [at the Hill Stations] at night, to be most objectionable, and it will accordingly be peremptorily forbidden, except in Hospitals where Medical Officers in charge will use their own discretion.

ORDER.

Ordered, that a copy of the foregoing be forwarded to the Public Works Department, in reply to docket from that Department, No. 1158, of the 2nd March 1859.

No. 3082.

Copy of the foregoing forwarded to the Government of the North Western Provinces, for information.

No. 1223.—*Notification.—Public Works Department. Dated Allahabad, the 2nd June* 1859.

The following Circular, issued by the Government of India, in the Public Works Department, No. 2805, dated 4th instant, is published for general information :—

Circular No. 2805.—*From* Lieutenant Colonel H. Yule, *Secretary to the Government of India, to* E. C. Bayley, *Esquire, Officiating Secretary to the Government of the North Western Provinces.—Public Works Department—(General Establishments). Dated Fort William, the 4th May* 1859.

By the Notification in the Public Works Department, No. 117, dated 17th June 1856, (Public Works Code, Chapter I. Paragraph 4) the Military allowances of Commissioned, Warrant, and Non-Commissioned Officers and of Soldiers employed in the Public Works Department, are chargeable to that Department, although both were drawn from the Military Pay Offices under the audit of the Military Auditor General.

2nd.—The Right Hon'ble the Governor General in Council is now pleased to direct, that the Military allowances of Officers and Soldiers employed in the Public Works Department, shall be drawn in the same bills with their Staff salaries subject to the audit of the Chief Engineers under whom they may be serving. The pay proper only will be drawn from the Military Pay Offices under audit of the Military Auditor General.

3rd.—The operation of this order will commence with (and include) the Military allowances for May 1859.

4th.—This Regulation is applicable to the three Presidencies of India.

5th.—With reference to the above, orders will be issued in the Military Department for Certificates of the amount of Military allowances passed in the Pay Department up to 30th April, being issued to Officers of the Public Works Department.

6*th.*—Superintending and Executive Engineers should apply in proper time to the Pay Offices for their Certificates, if not received as soon as required. The Certificate should be attached to the salary bills for the Chief Engineer's audit.

7*th.*—The Military allowances and Staff salary of each individual should be drawn together thus:—

Executive Engineer.

Captain A. B., Staff salary, ...	500	0	0
Military allowances, ...	293	10	0
	793	10	0

Overseer.

Sergeant C. D., Departmental salary, ...	85	0	0
Ditto, batta,	6	5	4
..			
	91	5	4

No. 3114.—*From Lieutenant Colonel* H. YULE, *Secretary to the Government of India to the Secretary to the Government of Bombay.—Public Works Department.—*(*General*). *Dated Fort William, the* 12*th May* 1859.

IN order to remedy the hitherto unsettled position of Rajpootana, as regards applications for sanctions to Public Works in that Territory, the Governor General in Council has been pleased to direct, that whilst the Public Works Department in Rajpootana continues (as it is likely to continue) to be conducted by Officers of the Bombay Establishment, all references &c., regarding the Department should be made to the Government of Bombay.

2*nd.*—I am to request, therefore, that the Right Honorable the Governor in Council will be good enough to dispose of such matters, as he would of similar matters within the proper limits of the Bombay Presidency.

CIRCULAR No. 3817.—*From Lieutenant Colonel* H. YULE, *Secretary to the Government of India, to the Secretary to the Government of the North Western Provinces.—Public Works Department.—*(*General Establishments*). *Dated Fort William, the* 8*th June* 1859.

I AM directed by the Governor General in Council to transmit, for information and future guidance, in supercession of all other orders in the subject, copy of a Resolution of this Government, in the Financial Department, dated 8th February 1856, granting all local Governments and Administrations, power to sanction changes in Establishments not involving an increase of expenditure subject to the orders of the Government of India, and on the understanding that, the changes will be reported in the same manner as at present.

No.——*Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Financial Department. Dated the* 8*th February* 1856.

READ an endorsement from the Home Department, No. 139, dated the 24th ultimo, forwarding for consideration and orders, a letter from the Government of Fort Saint George, No. 10, of the 7th idem, recommending a re-distribution of the salaries of the Talook Sherishtadars of Barkoor and Honore, in the district of Canara.

RESOLUTION.

On the recommendation of the Government of Saint George, the Most Noble the Governor General in Council is pleased to sanction the arrangements noted in the margin on the ground, that the duties of the Talook Sherishtadar of Honore are more onerous than those of any other Officer of the same grade, in consequence of the Sub-Collector's Treasury being located at that place. The arrangement involves no increase of expenditure, and is to take effect from the 12th July last.

	Present.	*Now sanctioned.*
Talook Sheristadar of Barkoor,	Rs. 55	50
Ditto of Honore,	„ 50	55
	Rs., 105	105

The Government of Fort Saint George also adverts to the inconvenience and delay caused by a reference to this Government of such cases as the one noticed above, and requests that, that Government may be authorized to sanction charges in Establishments not involving increased cost; a periodical return of all such changes being submitted for information, if required.

Though there does not appear to be any great objection to this proposal, His Lordship in Council thinks, it will be better to allow the local Governments to authorize such changes, subject to the orders of this Government, on the understanding that, the changes will be reported in the same manner as at present. While the inconvenience complained of will by this means be avoided, the check now exercised by this Government will be preserved.

CIRCULAR No. 4162.—*From* CAPTAIN A. FRASER, *Under-Secretary to the Government of India, to* G. E. W. COUPER, *Esquire, C. B., Secretary to the Government of the North Western Provinces.—Public Works Department.—(General—Accounts.) Dated Fort William, the 21st June* 1859.

IT having been brought to notice, that in several instances Contractors have objected to the investment in Government securities of the Guarantee Fund, as laid down in the rules regarding contracts for works under supervision, (*Vide* Chapter VIII. Section 4, Page 104, Rule XV., of the Public Works Code), the Right Honorable the Governor General in Council has been pleased to direct, that the rule be modified, making it optional with the Contractor to invest the Guarantee Fund in Government security or not, as he thinks proper, the money deposited being paid into the nearest Civil Treasury, instead of remaining in the hands of the Executive Engineer, who may not always have sufficient Guard.

No. 3828.—*From* CAPTAIN A. FRASER, *Under-Secretary to the Government of India, to the Secretary to Government of the Punjab.—Public Works Department.—(Ecclesiastical—Churches.) Dated Fort William, the 9th June* 1859.

I AM directed to acknowledge and reply to your letter No. 252-1155, dated 25th ultimo.

2nd.—As Church furniture is on quite a different footing from Barrack furniture, and is not even a charge on the Military Department, the Governor General in Council is of opinion that all Church furniture (in the widest sense of the term) authorized by Government, should be supplied and repaired by the Department of Public Works.

3rd.—The supply of such articles is subject to just the same rules, with regard to authority and competence, as other works; the powers of local Officers conceded in the Code, being applicable in the first instance to Chaplains, in the second to the superior Military Officers, if the Church is in a Cantonment, and to the Superior Civil Officers, if it is out of a Cantonment; the action of both being subject to the supervision of the Lieutenant Governor, as prescribed in the Code.

No. 1695.—*The 11th July* 1859.

THE Resolutions by the Hon'ble the Lieutenant Governor, dated 31st May 1835, and the Notification, No. 451 A., dated the 22nd March 1855, are hereby declared to be applicable to the undermentioned Canals, in the Deyrah Doon.

The Kutta Puttur Canal, taken off from the River Jumna.

The Kalunga Canal, taken off from the Song River.

The Jakhun Canal, taken off from the Jakhun River.

2.—Act VII. of 1845 is declared to be in force within the limits of the above mentioned Canals, from the 1st July 1859.

3.—Under the powers vested in the Lieutenant Governor of the North Western, Provinces, by Section 8, of the aforesaid Act, the Superintendent of the above Canals, Mr. R. E. Forrest, is appointed to be Deputy Collector for the levy of Rates, Tolls and Dues, and Joint Magistrate for the enforcement of the penalties specified in Act VII. of 1845.

CIRCULAR No. 3998.—*From Captain* A. FRASER, *Secretary to the Government of India, to* G. E. W. COUPER, *Esquire, C. B., Secretary to the Government of the North Western Provinces.*—(*General Accounts.*)

IN continuation of this Office Circular, No. 5742, dated 28th October last, containing Rules regarding arrears of accounts, I am directed to intimate that His Excellency the Governor General in Council has been pleased to direct, that the authority now vested in Chief Engineers to sanction one month's advance of fixed salary of persons belonging to the Department of Public Works, shall be extended to Superintending Engineers, and shall include advances of one month's authorized travelling allowance.

2nd.—Executive Engineers are also authorized to pay on their personal responsibility in anticipation of audit, the arrears of authorized pay due to a discharged Servant.

CIRCULAR No. 4229.—*From* H. YULE, *Esquire, Secretary to the Government of India, to* G. E. W. COUPER, *Esquire, C. B., Secretary to the Government of the North Western Provinces.—Public Works Department.*—(*General—Miscellaneous.*) *Dated Fort William, the 28th June* 1859.

IT having been represented to the Supreme Government, that the strict enforcement of the Rule laid down in Chapter VIII., Section 4, Paragraph 10 of the Public Works Department Code, prohibiting advances to Contractors without adequate security, would be likely to impede the action of the Department, and interfere with the progress of petty works; the Governor General in Council has been pleased to permit, that in lieu of the present Clause "that no advance may be made without adequate security being taken from the Contractor" the following be substituted:—

"Any advance made without adequate security (as explained below) will be on the personal responsibility of the Executive Engineers."

CIRCULAR No. 4453.—*From* H. YULE, *Esquire, Secretary to the Government of India, to* G. E. W. COUPER, *Esquire, C. B., Secretary to the Government of the North Western Provinces.—Public Works Department.—*(*Military.*) *Dated Fort William, the 2nd July* 1859.

IT being deemed desirable that prompt reports of all important accidents to the buildings or works, &c., in the Civil and Military Stations of the Bengal Presidency, should be made to this Department for the information of His Excellency the Governor General in Council, I am directed to request you will issue the necessary instructions to the Chief Engineer to require the Executive Engineers under his orders to report any accidents that may occur in their respective charges, whether from fire, wind, or flood, or other cause, and which they deem of sufficient importance.

2nd.—The report should be transmitted to this Office direct, and immediately after the occurrence of the accident.

CIRCULAR.—*Public Works Department.—*(*General.*)—*Public Works. Dated Fort William, the 18th July* 1859.

WITH a view of preventing uncertainty respecting the instruments for which Executive Engineers will be permitted to Indent, the Government of India publishes the following list of such Instruments, for guidance and information :—

Arrows, Measuring Chain.
Chain, Measuring 100.
Compasses, Prismatic.
Levelling Instruments, Mathematical drawing Instruments.
Optical, Square.
Perambulator, (Waughs).
Rods, Measuring.
Rules, Parallel.
Staves, Levelling.
Scales, Gunter's.
" Paper, Holtzapffel's).
" Marquois.
Tapes, Measuring.
Theodolites.

CIRCULAR.—*Public Works Department.—General Establishments. Dated Fort William, the 23rd July* 1859.

THE Acting Commandant of Artillery at Meerut has recently brought to the notice of this Government, the great inconvenience that is caused by the sudden remand of Soldiers from the Department Public Works to the Regiment of Artillery, such remand in some cases not appearing in General Order for several months, and in the meanwhile no information relative to the individual cases being furnished to the Commandant by any Office or Department whatever, he is precluded from taking any notice of the remand.

2nd.—The Government of India directs, that in any case where, from special circumstances, it has been expedient, through Local Military Authority, to make over a Soldier attached to the Department to Military duty in anticipation of the Orders of Government on his case, a brief report of the circumstances should in every instance accompany the Soldier so made over.

No. 1354.—*From* T. D. FORSYTH, *Esquire, Secretary to the Chief Commissioner, Oudh; to the Secretary to Government, North Western Provinces.—(Revenue). Dated Lucknow, the 11th July* 1859.

FROM certain correspondence submitted by the Commissioner of the Lucknow Division, it appeared that formerly the Ghâts opposite the Cawnpore District, were under the management of the Cawnpore Authorities, who remitted half the amount to the Oonau Treasury. Instead of this arrangement, the Commissioner considered that it would be more convenient to have the Ghâts under one management, which formed the object of his reference.

2nd.—As the question was one which affected the Khyrabad and Fyzabad Divisions likewise, their Commissioners were requested to state the arrangements existing along the entire line of the river boundary within their respective jurisdictions.

3rd.—The former Officer in expressing his concurrence as to the management being on one side or the other, stated that there were six Ferries as per margin,* in the Hurdui District, the whole proceeds of which are consumed in the North Western Provinces, and suggested that a fair proportion of the Funds might be secured for the District in question.

* FUTTEHGURH SIDE.	HURDUI SIDE.
Julisur.	Chockpoor.
Koosum Khor.	Hyderabad.
Mewra.	Tirwa Paveola.
Mehdee Ghat.	Mehdee Ghât.
Deopoor.	Buna Ghât.

4th.—The latter Officer brought to notice that there were 20 Ferries on the Ganges within the limits of the Pertabgurh District in his Division, nine leased by the Deputy Commissioner, eight by the Magistrate of Allahabad, three by the Magistrate of Futtehpore. He at the same time stated, that after the 1st January next, all the Ferries should be leased by the Authorities of one side of the river only; half the proceeds to be paid to the Authorities of the other side.

5th.—Under these circumstances, the Chief Commissioner would propose, for the consideration of the Hon'ble the Lieutenant Governor, that all the Ferries thus situated, should be managed entirely by the Officers of the North Western Provinces, and the proceeds divided between the North Western Provinces and Oudh.

No. 1952.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to the Government of the North Western Provinces, to the Secretary to the Chief Commissioner, Oudh.—Public Works Department. Dated Allahabad, the 30th July* 1859.

I AM directed to acknowledge the receipt of your letter No. 1354, dated 11th instant, proposing that all the Ferries between the North Western Provinces, and Oudh, should be managed entirely by the Officers of the North Western Provinces, and the proceeds divided between the two Governments.

2nd—In reply I am to state, that the Lieutenant Governor has no objection to offer to the Chief Commissioner's suggestions; but considering that the whole of the trouble of management and collection will devolve upon the Officers of the North Western Provinces, he thinks that they ought to have Rs. 60 per cent. of the proceeds, the remaining Rs. 40 per cent. being made over to Oudh.

No. 1563.—*From Lieutenant* J. F. MacAndrew, *Officiating Secretary to Chief Commissioner, Oudh, to* G. E. W. Couper, *Esquire, C. B., Secretary to the Government, North Western Provinces, Allahabad.—(Revenue). Dated Lucknow, the 3rd August* 1859.

With reference to the concluding portion of Paragraph 2 of your letter No. 1952, dated the 30th ultimo, I am directed to state that the Chief Commissioner entirely coincides in the opinion expressed by the Hon'ble the Lieutenant Governor, that in consideration of the trouble of management and collection of the Ferry Funds devolving on the Officers of the North Western Provinces, Rs. 60 per cent. of the proceeds, should be assigned to them, and Rs. 40 per cent. to those of this Province.

Nos. 2250, 2251 and 2252.—*From* F. B. Outram, *Esquire, Officiating Under-Secretary to the Government of the North Western Provinces, to the Commissioners of Allahabad, Agra* and Goruckpore.† Dated Allahabad, the 22nd August* 1859.

I am directed by the Honorable the Lieutenant Governor to forward for your information, the accompanying copies of the correspondence noted in the margin, and request you to direct the Magistrate *of Cawnpore, Allahabad and Futtehpore*, to take steps for bringing all Public Ferries *on the Ganges between their respective Districts*, and the Province of Oudh, under *their* management from the 1st January 1860, and to note that Rs. 60 per cent. of the proceeds will be credited to the Ferry Fund of the North Western Provinces, and Rs. 40 per cent. to that of Oudh.

From Secretary to Chief Commissioner, Oudh, No. 1354, dated 11th July 1859, to Secretary to Chief Commissioner, Oudh, No. 1952, dated 30th July 1859.

* Of Furruckabad.
† Of Goruckpore.
* On the Ganges between his district.
† On the Gogra between his district.
* His.
† His.

2nd.—The amounts of collections from such shared Ferries should be kept distinct from those of other Ferries, the entire proceeds of which belong to the North Western Prvinces, and in the Settlement Reports submitted to you, the former should be discriminated in order that the Accountant may divide the proceeds between the North Western Provinces and Oudh, in the preparations indicated.

Public Works Department.

No. 2261.—*The 22nd August* 1859.—Under the powers vested in the Lieutenant Governor of the North Western Provinces, by Section 2, Act VII. of 1845, it is hereby declared that Rule XVI. of the Regulations for the Western and Eastern Jumna Canals, notified by this Government, on the 31st May 1845, and extended by Notification No. 219 A., dated 30th January 1855, to the Ganges Canal, is applicable equally to injury done by *boats* as to injury caused by *rafts* to the bridges and masonry works on the Canal.

XVI. Injury to the bridges and masonry will render the owners of rafts liable to charge for the repair. But if the injury be wilful or wanton, the offender will be further punishable under Section V. of the Act.

No. 2354.—*The 29th August* 1859.—The Ferries on the Burnia River at Koonia Poorana Pool and Nukkee Ghât, close to the city of Benares, are hereby declared public, under the provisions of Clause 2, Section 3, Regulation VI. of 1819, and the Magistrate is authorized to take measures for bringing them under his management, at such time as he may think proper.

No. 870 A.—*From Lieutenant Colonel* A. CUNNINGHAM, *Chief Engineer, North Western Provinces, to* G. E. W. COUPER, *Esquire, C. B., Secretary to the Government of the North Western Provinces, Allahabad.—Department of Accounts. Dated Agra, the 12th July* 1859.

WITH reference to the concluding Clause of Paragraph 4, Section 2, Chapter XV., Page 173, of the Code for the Public Works Department, which precludes an Assistant or Subordinate, officiating as an Executive, from drawing more than he would do if permanently appointed an Executive Engineer of the 4th Class, I have the honor of requesting, I may be informed whether the Rule is applicable to "Special Assistants" (who are equal to Executive Engineers of the 4th Class) when Officiating for Executive Engineers of a higher Class.

2*nd*.—The case under consideration is that of Captain Dansey, Special Assistant Engineer, who officiated as Executive Engineer of the Gwalior Division, during the absence of Major Maxwell, an Executive Engineer of the 1st Class, on sick leave.

No. 2028.—*From* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to the Government of the North Western Provinces, to the Secretary to the Government of India, in the Public Works Department. Dated Allahabad, the 5th August* 1859.

I AM directed to forward for the consideration of His Excellency the Governor General in Council, the accompanying copy of a letter No. 870 A., dated 12th July 1859, from the Chief Engineer, North Western Provinces, wherein a question is raised, with reference more particularly to the case of Captain Dansey, when he officiated for the Executive Engineer of the Gwalior Division, as to whether the concluding Clause of Paragraph 4, Section 2, Chapter XV. of the Code is to to be considered applicable to Special Assistants.

No 6061.—*From* CAPTAIN A. FRASER, *Under-Secretary to the Government of India, to* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to Government, North Western Provinces.—Public Works Department.—(General Establishments). Dated Fort William, the 30th August* 1859.

IN reply to your letter No. 2028, dated the 5th instant, I am directed to inform you, that Section 2, Paragraph 4, Chapter XV. of the Code, applies to all Assistants.

Fort William, Home Department, Legislative, the 4th July 1851.

THE following Act is passed by the Hon'ble the President of the Council of India in Council, on the 4th July 1851, with the assent of the Most Noble the Governor General of India, which has been read and recorded.

Ordered, that the Act be promulgated for general information.

ACT No. VIII. OF 1851.

An Act for enabling Government to levy Tolls on public Roads and Bridges.

Whereas it is expedient to enable Government to levy Tolls upon Roads and Bridges, it is enacted as follows:—

I. Acts II. 1837, and VIII. 1838, are repealed, but not so as to revive any Regulation or Act thereby repealed.

II. The Governor of the Presidency of Fort William in Bengal, the Lieutenant Governor of the North Western Provinces of Bengal, the Governor of the Presidency of Fort St. George in Council, and the Governor of the Presidency of Bombay in Council, may cause such rates of Toll, not exceeding the rates mentioned in the Schedule annexed to this Act, as they respectively think fit to be levied upon any Road or Bridge which has been, or shall hereafter be made or repaired at the expense of the Government; and may place the collection of such Tolls under the management of such persons as may appear to them proper: and all persons employed in the management and collection of such Tolls shall be liable to the same responsibilities, as would belong to them, if employed in the collection of the Land Revenue.

III. In case of non-payment of any such Toll on demand, the Officers appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the Toll; and, if any Toll remains undischarged for twenty four hours, with the cost arising from such seizure, the case shall be brought before the Officer appointed to superintend the collection of the said Toll, who may sell the property seized for discharge of the Toll, and all expenses occasioned by such non-payment, seizure, and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property: and the said Officer on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any close holiday, he will sell the property by auction. Provided that, if at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the Toll payable by him, the said Officer shall forthwith release the property seized.

IV. No. Tolls shall be paid for the passage of Troops and Military Stores and Equipages on their march, or of Police Officers on duty, or of any person or property in their custody; but no other exemption from payment of the Tolls levied under this Act shall be allowed.

V. All Police Officers shall be bound to assist Toll Collectors, when required, in the execution of this Act; and, for that purpose, shall have the same power which they have in the exercise of their common Police duties.

VI. Every person, other than the persons appointed to collect the Tolls under this Act, who shall levy or demand any Toll on any public road or bridge, or for passing through any bazar situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other, or higher Toll than the lawful Toll, or under colour of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money, or any valuable thing from any person under colour of this Act, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six calendar months, or to fine not exceeding two-hundred Rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved; but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court of the Zillah.

VII. A Table of the Tolls authorized to be taken at any Toll-gate or station, shall be put up in a conspicuous place near such gate or station, legibly written or printed in English words and figures, and also in those of the Vernacular language of the District to which shall be annexed written or printed in like manner, a statement of the penalties for refusing to pay the Tolls and for taking any unlawful Toll.

VIII. The Tolls levied under this Act, shall be deemed public revenue; but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of Roads and Bridges, within the presidency in which they are levied.

No. 2840.

The 26th September 1859.

Notice is hereby given, that from and after the 1st of October next, Tolls will be levied according to the terms of Government Notification, No. 15 A., dated 25th

January 1856, and at the rate specified in the Schedule thereto subjoined, at the following places, upon the Grand Trunk Road, and its branches in these Provinces:—

District.	*Position of Toll Bar.*
Cawnpoor, ---	--- Sheorajpoor.
Furruckabad and Cawnpore branch,	--- Khodagunge bridge.
Furruckabad, ---	--- Nubbeegunge.
Agra and Mynpoory branch,	--- Nonehai.
Allygurh and Agra branch,	--- Rambagh.
Boolundshuhur, ---	--- Wulleepoor.
Allygurh, ---	--- Nanow.

Between Khoorja and Delhie, and the Check bars of Jusrutpoor, Boolundshuhur and Manum.

The Notification, No. 15 A., and the Schedule attached, are subjoined for general information, and more convenient reference.

No. 15 A.

The 25th January 1856.

Notice is hereby given, that the Notification, No. 1209 A., of the 25th October 1854, will cease to have effect from the 1st March next, and that on and from that date, Tolls will be levied under the provisions of Act VIII. of 1851, according to the subjoined Schedule, at the following places, upon the Grand Trunk Road, and its branches in these Provinces:—

District.	*Position of Toll Bar.*
Benares, ...	... Raja ka Talao.
Allahabad, ...	... Byragee ka Nulla.
Ditto, ...	... Lohunga.
Cawnpore, ...	... Sheorajpoor.
Furruckabad, ...	... Khodagunge bridge, Futtehgurh and Cawnpoor branch.
Ditto, ...	... Nubbeegunge.
Ditto, ...	... Muddunpoor, Futtehgurh and Mynpoory branch.
Agra, ...	... Nonehai, Mynpoory and Agra branch.
Ditto, ...	... Rambagh, Allygurh and Agra branch.
Allygurh, ...	... Nanow Canal bridge.
Ditto, ...	... Jusrutpoor, ditto. Check bar to Nanow gate.
Boolundshuhur, ...	... Wulleepore Canal bridge.
Ditto, ... Boolundshuhur,	... Canal bridges.
Ditto, ... Manum,	... Check bars to the Wulleepoor gate.
Delhie, ...	... Suleempoor Canal bridge.
Panceput, ...	... Gounda Canal bridge.

From the 1st of March 1856, Tolls will cease to be levied at the Shahdura, Hattras and Hindun bridge stations.

Tickets will be given upon payment of Toll at the undermentioned gates, which will exempt the holders from payment at the gates specified during the day following, that within which the tickets may be delivered.

Each day will be reckoned to commence at midnight.

Raja ka Talao clears Byragee ka Nulla.
Byragee ka Nulla clears Raja ka Talao.
Khodagunge clears Muddunpoor and Nubbeegunge.
Muddunpoor clears Khodagunge and Nubbeegunge.
Nubbeegunge clears Muddunpoor and Khodagunge.
Wulleepoor clears Boolundshuhur and Manum.
Boolundshuhur clears Wulleepoor and Manum.
Manum clears Wulleepoor and Boolundshuhur.

Schedule of Tolls to le levied under Act VIII. of 1851.

Specification of Vehicle or Animal.	Total. Laden or with Passenger.			Unladen or without Passenger.		
On every four-wheeled Carriage, on springs, with three or more horses, and one or more Passengers, ...	2	0	0	1	0	0
Ditto ditto, with two horses, ...	1	0	0	0	8	0
Ditto ditto, with one horse, ...	0	8	0	0	4	0
On every two-wheeled Carriage, or springs, ...	0	8	0	0	4	0
On every four or two-wheeled Carriage, without springs, as ruths, bylees or ekkas, ...	0	4	0	0	2	0
On every cart or hackery not on springs, and drawn by bullocks, not being ruth, bylee, or ekka, ...	0	2	0	0	2	0
Elaphant, ...	1	0	0	1	0	0
Buffaloes or Bullocks, per head, ...	0	0	4	0	0	2
Bullocks or Buffaloes, above 12, per score, ...	0	4	0	0	2	0
Camels, single, ...	0	1	6	0	0	9
Ditto in strings of more than 10, and less than 20, per string,	1	0	0	0	8	0
Ditto, and for every additional score, ...	0	12	0	0	6	0
On every horse, ...	0	1	0	0	0	6
On every poney or tattoo, ...	0	0	6	0	0	3
On every mule or ass, ...	0	0	2	0	0	1
On every palanquin or dooley, with four or more bearers,	0	8	0	0	8	0
Ditto, with less than four bearers, ...	0	2	0	0	2	0

CIRCULAR No.——.*Public Works Department.—Military Contingencies. Dated Fort William, the 27th September* 1859.

HIS Excellency the Right Hon'ble the Governor General in Council is pleased to direct, that when two or more Officers are quartered in one department, the rent to be charged to each will be reduced proportionately, so that the aggregate payments of all the Officers quartered together shall not exceed the ordinary full rent of the quarters.

Extract from the Proceedings of the Right Hon'ble the Governor General in Council.—Public Works Department.—(Military—Contingencies). Dated Fort William, the 10th October 1859.

READ Extract from the proceedings of the Government of India, in the Military Department, No. 741, dated 19th September, regarding the provision of Quarters for Barrack Serjeants.

Ordered, that the above extract be forwarded to the local Governments and Administrations for information and guidance.

No. 741.—*Extract from the Proceedings of His Excellency the Governor General in Council, in the Military Department, under date the 19th September* 1859.

No. 733 B.—*From* COLONEL A. BECHER, *Quarter Master General of the Army, to the Secretary to the Government of India, Military Department, Calcutta. Dated Quarter Master General's office, Head Quarters Simla, the 27th August* 1859.

IN compliance with the request contained in your letter No. 331 of 8th instant, I have the honor to acquaint you for the information of His Excellency the Governor General in Council, that in the Commander-in-Chief's opinion, Barrack Serjeants should be allowed quarters, if available, and if not, house-rent according to the Rule laid down in paragraph 38, Section 20, Pay and Audit Regulations, 1849, viz., at Rs. 20 per-mensem.

2*nd*.—The Quarters provided should be similar to those allowed to Regimental Serjeants, single or married, according to circumstances.

CIRCULAR No. 7254.—*From* A. FRASER, *Captain, Under-Secretary to the Government of India, to the Secretary to Government, North Western Provinces.—Public Works Department. Dated Fort William, the 19th October* 1859.

I AM directed to annex forms of a Service Roll, which are required to be filled up by all the Military Officers of the Public Works Department, under the Government of the North Western Provinces.

2*nd*.—To save time, each Officer will transmit the statement, after filling it up, direct to this office. Special orders should be issued that no delay takes place in such transmission.

3*rd*.—Should an Officer, owing to his not having the means of reference to records &c., find difficulty in filling up the Return, he will, on that account, not delay, but fill it up as far as he is able, and return it at once to this office.

4*th*.—A sufficient number of Forms is herewith enclosed for distribution to each Public Works Officer, under the control of the Government of the North Western Provinces.

DUPLICATE.

Statement of the Service of

Date

1. Rank, Name, and Corps.	2. Date of joining the Service Appointment Leave, (with orders quoted.)	3. Regimental Duty Leave, Department to which appointed.	4. Period of Service in each year, and twelfths of years.	5. Remarks.

NOTE.—If the Officer has no means of referring to records, he will fill up the above Form as far as he is able, and return it at once direct to the Secretary to Government of India, Public Works Department, Calcutta.

No. 6440.—*Public Works Department. Dated the 16th November* 1859.

THE following notice and list of Officers, exempted from paying Toll at the several Toll Bars and Bridges, in the North Western Provinces, are published for general information :—

General Orders by the Commander-in-Chief, dated 15th March 1855.

At the request of the Hon'ble the Lieutenant Governor, North Western Provinces, and in view to obviate misapprehension on the part of Officers and other Military persons, as to their right of exemption from Tolls, His Excellency the Commander-in-Chief is pleased to direct the attention of all concerned to the terms of Act VIII. of 1851, regulating the levy of Tolls upon Roads and Bridges, and especially to the 4th Section of this Act, which grants an exemption from such Tolls in the cases only of the passage of troops and military stores and equipages on their march, or of Police Officers on duty, or of any persons of property in their custody.

General Orders by the Right Hon'ble the Governor General in Council, No. 145,

dated 21st August 1857.

It is hereby notified for general information, that under Clause IV. of Act VIII. of 1851, the only exemptions from the payment of Tolls are made in favor of troops and military stores and equipages on their march, and of Police Officers on duty, or of persons or property in their custody.

2nd.—All Government Officials, not thus exempted from the payment of Tolls, are therefore required to pay the authorized Tolls on all occasions, when passing through any Toll gate, unless they have received a personal exemption under the direct orders of the local Government, or of some Officer, duly invested with the power of granting such exemptions.

3rd.—Officials not exempt from payment of Tolls, either under the Act or the special authority of the local Government, when travelling on duty, will, notwithstanding, be expected to pay all the usual Tolls in cash, and such payments may be adjusted in their personal or departmental contingent bills, when sufficient authority exists, for the charge being debited to Government.

List of exemptions from payment of Toll at the several Toll Bars and Bridges, on the Grand Trunk Road, in the North Western Provinces.

Troops, Military stores and equipages on their march. Police Officers on duty, and Sowars with persons or property under their charge. Mail Carts and the Horses on return with their Syces. Parcel Vans, belonging to the Postal Department.	In all cases.

Villages or cultivators, in the neighbourhood of Toll bars, when granted exemption tickets.

Princes or independent Rajahs or Chiefs, on an order from the Political Agent, through the Executive Engineer.

Stud and Commissariat Cattle, when accompanied by a certificate from a Stud or Commissariat Officer, that the Cattle are *bonâ fide* the property of Government.

Educational Officers when on duty, and their Assistants or Inspectors. The native Inspectors or Assistants should receive certificates from the Director of Public Instruction, to show that they belong to the Educational Department.

The Governor General's Camp. The Commander-in-Chief's Camp. The Lieutenant Governor's Camp.	In all cases.
The Chief Engineer of the North Western Provinces. The Superintending Engineers of the North Western Provinces. The Executive Engineers in the North Western Provinces.	When on duty within their respective Circles and Divisions.
Road establishments, within their own districts. Canal establishments, when the road is over the Canal.	On certificates or tickets granted by their superior Officers.
Commissioners and Magistrates.	While travelling within their own Divisions and districts respectively.
Inspector General of Prisons, North Western Provinces.	While travelling on duty.

No. 144 A.—*Camp Futtehgurh, the 9th December* 1859.

It is hereby notified, for general information, that Tolls, on the following scale, will be levied on foot passengers, crossing rivers by means of either Bridges of Boats, or Ferries, kept up by the Public Works Department.

	On Rivers, Class 1st.		*On Rivers, Class 2nd.*		*On Rivers, Class 3rd.*
	Boats from 15th October to 15th June.	Bridges during twelve months, or boats from 16th June to 14th October.	Boats from 15th October to 15th June.	Bridges during twelve months, or boats from 16th June to 14th October.	Whether by boats or bridges.
Foot passengers, laden or unladen.	2 pie.	3 pie	1 pie.	2 pie.	1 pie.

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CIRCULAR ORDERS

OF THE

SUDDER DEWANNY ADAWLUT,

NORTH WESTERN PROVINCES,

FOR 1859.

CIRCULAR No. 5.—*To the Civil and Criminal Authorities, in the North Western Provinces, Saugor and Nerbudda Territories, Jhansie and Kumaon.—Dated Agra, the 23rd February* 1859.

THE Court are pleased to publish for general information, the accompanying copies of a letter, No. 294, dated the 18th instant, from the Under-Secretary to Government, North Western Provinces, and of its enclosures as per margin,* on the subject of the operation of Act XXXIII. of 1854, in respect to the time at which, and the language in which, judicial decisions are to be recorded.

* From Under-Secretary to the Government of India, Home Department, No. 128, dated 17th January 1859.
Extract paragraphs 8 and 10 of a Despatch, No. 14, dated 30th November 1858, from the Right Hon'ble the Secretary of State for India.

(COPIES.)

No. 294.—*From* C. J. DANIELL, *Esquire, Under-Secretary to the Government of the North Western Provinces, to* H. W. DASHWOOD, *Esquire, Register Sudder Nizamut Adawlut, North Western Provinces, Agra, Judicial* (*Criminal*) *Department.—Dated Allahabad the* 18*th February* 1859.

I AM directed by the Hon'ble the Lieutenant Governor, to forward copy of a letter from Under-Secretary to the Government of India, Home Department, No. 128, dated 17th ultimo, with its enclosure, regarding the operations of Act XXXIII. of 1854, for the information of the Sudder Court, and for circulation.

No. 128 of 1859.—*From* R. B. CHAPMAN, *Esquire, Under-Secretary to the Government of India, to the Secretary to the Government, North Western Provinces, Home Department* (*Judicial*).—*Dated Fort William, the* 17*th January* 1859.

IN continuation of letter No. 1290, dated the 24th August 1858, I am directed to transmit for information, the accompanying Extract, paras. 8 and 10, of a Despatch, No. 14, of the 30th November 1858, from the Right Hon'ble the Secretary of State for India, on the subject of the operation of Act XXXIII. of 1854, relative to the time at which, and the language in which, judicial decisions are to be recorded.

Letter dated 26th August 1858.—*Extract Paras.* 8, 9, *and* 10, *from a Despatch from the Right Hon'ble the Secretary of State for India, in the Judicial Department, No.* 14 *of* 1858, *dated the* 30*th November.*

As to working of Act XXXIII. of 1854, relative to the time at which, and the language in which, judicial decisions are to be recorded.

8*th.*—THE apprehensions expressed in Para. 18 of the Legislative Despatch of the Court of Directors, dated 10th December, (2) 1856, that the provisions of this Act would be "found "greatly to impede the due despatch of business "in the several Civil and Criminal Courts to the "great inconvenience of the people," appear happily to have been unfounded, as in reply to your reference on the subject, the local Governments and the subordinate authorities were almost unanimous in reporting, that the Act has worked most beneficially, and has given the highest satisfaction to the deciding Officers and to the public. I agree with you, therefore, in opinion, that under these circumstances, the law ought not to be altered.

9*th.*—In receiving the reports, however, you properly pointed out to the Local Government that the Act requires its provisions to be observed at such time only as Officers may be acting "judicially," and in answer to objections raised by certain of the Officers, that delay was caused by the Act rendering it obligatory that all decisions should be written in open Court, you explained that by an express provision in the Act such a course was not necessary, and that the law only enjoins that the signature of the Officer should be attached to the decision at the time of the same being pronounced.

10*th.*—The instructions you have issued on these points, as well as your having called attention to the adoption of measures for securing uniformity of procedure whereby all needless delay may be avoided, will doubtless tend to the still more satisfactory working of the Act.

(True Extract.)

(Signed) R. B. CHAPMAN,

Under-Secretary to the Government of India.

(True Copies.)

(Signed) C. J. DANIELL,

Under-Secretary to Government, N. W. P.

(True Copies)

H. W. DASHWOOD,

Register.

CIRCULAR NO. 4 OF 1859.—*To the Civil and Sessions Judges in the North Western Provinces, Saugor and Nerbudda Territories, Commissioners of Jhansie and Kumaon.*—*Dated Agra, the* 23*rd February* 1859.

UNDER instructions from the Government, I am directed by the Court to forward to you, for your own guidance and that of your subordinates, as shewing the principal upon which you should be guided on the subject of the employment of Native Christians in the Public Service, the accompanying copy of a communication from the Under-Secretary to Government of India, Home Department, No. 113, dated the 15th ultimo, together with its enclosed Despatch from the Secretary of State.

No. 113.—*From* R. B. CHAPMAN, *Esquire, Under-Secretary to the Government of India, to Secretary to Government, North Western Provinces, Home Department.*—*Dated Fort William, the* 15*th January* 1859.

I AM directed to transmit, for the information and guidance of the Government of the North Western Provinces, the accompanying copy of Despatch, No. 36, dated 30th

November 1858, from the Right Hon'ble the Secretary of State for India, together with a copy of the abstract of replies of Public Officers in Bengal, therein referred to on the subject of the employment of Native Christians on the Public Service.

No. 36.—*From the* RIGHT HON'BLE LORD STANLEY, *Secretary of State for India, to the* RIGHT HON'BLE VISCOUNT CANNING, *Governor General of India in Council.*—*Dated London, the 30th November* 1858.

Para. 1. In your letter, dated the 14th August (No. 100) 1858, you report that in "order to test the accuracy of an opinion, which the Lieutenant Governor of Bengal "believed to be gaining ground both in England and in India, to the effect that Native "Christians were excluded from employment in the Public Service in this country, as "such, and because they were Christians, with reference to their fitness". Mr. Halliday had called on the principal Officers employed under his jurisdiction, for a report as to "the employment of Native Christians in the Public Service, or their exclusion from it." And you forward an abstract of the replies made to this reference, a copy of which you caused to be placed on the Editor's table at Calcutta, with a view to its obtaining the publicity desired by the Lieutenant Governor.

2*nd*.—It is evident, from the replies made to the enquiries of the Lieutenant Governor, that no grounds exist for the impression, which it was the object of Mr. Halliday to remove, and that the true explanation of the comparatively small number of that class who are engaged in the Public Service, is to be found in their small number in respect to the rest of the population, their generally low standard of qualification, and their preference either for trade or agriculture, or in the case of those better educated for employment in connexion with Missionary operations.

3*rd*.—This result of the enquiries of the Lieutenant Governor is such, as I should have been prepared to expect, and is quite satisfactory. As far as can be judged from the replies of the different Officers, the principal on which they have acted is, that the applicant best qualified for the vacant situation should be appointed whatever might be his creed. This is the correct principal which ought to guide Public Officers in the selection of individuals for subordinate employment, and it is accordingly unnecessary to issue any fresh orders for the guidance of the Public Officers in the Bengal Presidency in this matter.

4*th*.—It is proper, however, that any misapprehension which may exist on this subject among persons unconnected with the Public Service, should be corrected; and I trust that this object will have been sufficiently attained by your having caused the abstract of replies to be thrown open to the conductors of the Public Press.

5*th*.—I have no reason to think that there has been any exclusion of Christians as such, from the Public Service, in any of the other Presidencies. It will nevertheless be proper to communicate to the several subordinate Governments, the result of the enquiries made in Bengal, and the approval, which the general principle there acted on, has received from me in Council.

(Signed) STANLEY,
Secretary of State for India.

(True Copy.)
(Signed) R. B. CHAPMAN,
Under-Secretary to the Government of India.

(True Copies.)
(Signed) H. W. DASHWOOD,
Register.

(COPY.)

CIRCULAR No. 7.—*From* H. W. DASHWOOD, *Esquire, Register, to the Civil Judges in the North Western Provinces, and Commissioner of Kumaon.—Dated Agra, the 13th May* 1859.

I AM directed to transmit for your information, Extract paragraph 6 and 7, from the Court's reports on the administration of Civil Justice in these Provinces for the years 1856 and 1858, and to request that, in your report on the operations of the current year, and in all future annual reports you will refer to the number of suits decided on confession of judgment, and will call for the opinions of your subordinate Native Judges, and record your own, as to such confessions being generally *bonâ fide* or the reverse.

Extract Paragraph 6, *from the Courts report on the administration of Civil Justice in these provinces, for the year* 1856.

Para. 6.—The following Tabular Statement exhibits the proportion of suits disposed of "*ex parte*" and on confession of Judgment to those decided on the evidence in the presence of both parties in the Courts of the Sudder Ameens and Moonsiffs in the past two years:—

		1855.	1856.	Increase.	Decrease.
Sudder Moonsiffs.	On the evidence in the presence of both parties, ...	20,409	19,880	0	952
	Ex parte, ...	9,957	11,647	1,690	0
	Confession of judgment, ...	17,884	1,9841	1,957	0
Sudder Ameens.	On the evidence in the presence of both parties, ...	1,614	1,252	0	362
	Ex parte, ...	430	471	41	0
	Confession of judgment, ...	554	479	0	75

Showing a decrease in the number of decisions under the first head, and an increase in the number of cases disposed of *ex parte* in the Courts of the Moonsiffs and Sudder Ameens, and of decisions on confession of judgment in the Courts of the Moonsiffs.

As noticed by the Hon'ble the Lieutenant Governor in paragraph 8 of the orders passed on the annual returns for 1855, the frequency of confessions is undoubtedly a very remarkable feature in the working of the Judicial system of our regular Courts.

During the past year the Court issued a Circular, laying down rules for the correct insertion in the Annual and Quarterly Statements of cases of this nature; and they believe that the returns now before them may be relied upon as correct. The Court have continued to give their attention to the subject of the large number of "*ex parte*" decisions, and of decisions on confession of judgment; and while few, if any complaint have been made to them, in cases falling under the former head, from which it may fairly be inferred that, the failure of the defendants to enter an appearance is in the great majority of cases wilful, the result of another year's experience has tended to confirm the belief which they formerly expressed, and which they find to be shared in by many of the oldest and most experienced Judicial Officers in these provinces; that the confessions are generally of a *bonâ fide* character. No doubt cases of gross fraud do occasionlly occur; but the Court think that they may be looked upon as exceptions, not as the rule, and, as noticed in their resolutions on some of the zillah returns, they trust that suits of this description will receive a material check from the introduction of the stringent provisions contained in the new Penal Code "for the punishment of fraudulent claims to property to prevent its seizure as a forfeiture, or in execution of a decree, as well as to deter persons from, and to punish them for fraudulently suing for a sum not due. (*Vide* Articles 17 and 18, Chapter XI.)

Extract Paragraph 7, from the Court's Report on the administration of Civil Justice in these Provinces, from the year 1858.

Para. 7.—The following Tabular Statement exhibits the proportion of suits disposed of *ex parte*, and on confession of judgment to those decided on the evidence in the presence of the parties in the Courts of the Sudder Ameens and Moonsiffs in the past year:—

		1858.
Sudder Moonsiffs.	On the evidence in presence of the parties,	7,904
	Ex parte,	5,572
	Confession of judgment,	10,234
Ameens.	On the evidence in presence of parties,	526
	Ex parte,	331
	Confession of judgment,	384

The frequency of confessions has always been a conspicuous feature in the working of the Judicial system of our Regular Courts. In their report on the operations of the year 1856, the Court, as then constituted, expressed their belief, that confessions were generally of a *bonâ fide* character. This opinion they shared with several of the most experienced of the Judicial Officers subordinate to them, and the Court, as now constituted, have had no reason, so far as their own experience goes, to form a different conclusion on this point. These confessions, it will be observed, are most numerous in petty actions for debt. The Court propose to issue a Circular, directing the Zillah Judges to refer in their Yearly Reports to the number of confessions of judgment, and to call for the opinions of their native subordinate Judges, and record their own as to confessions being generally *bonâ fide*, or the reverse.

CIRCULAR No. 8.—*From* H. W. DASHWOOD, *Esquire, Register, to the Judges in the North Western Provinces, and Commissioner of Kumaon.—Dated Agra, the 26th May* 1859.

I AM directed to transmit to you for information and guidance, copy of a letter, dated 7th instant, from the Advocate General, to the address of the Officiating Under-Secretary to the Government, North Western Provinces, in the question of the validity of the assumption by a person in trade, whether man or woman, of a name formerly used by him or her in business, as the name of the firm in which that business is carried on, notwithstanding any change that may have taken place in his or her name.

(COPY.)

From W. RITCHIE, *Esquire, Advocate General, to* F. B. OUTRAM, *Esquire, Officiating Under-Secretary to the Government of the North Western Provinces.—Dated Calcutta, the 7th May* 1859.

I HAVE the honor to acknowledge the recipt of your letter No. 869, dated the 7th ultimo, (which was erroneously addressed to Simla, and which has been forwarded to me by the Judge Advocate General, to whom it was delivered there) and to state in reply, that I am of opinion that the signature of Mrs. McEvoy as "M. A. Ludlam" is under the circumstances stated, as valid and effectual as the signature of that lady under her present name of M. A. McEvoy would be.

2nd.—There is no legal objection to the assumption by a person in trade, whether man or woman, of a name formerly used by him or her in business, as the name of the firm in which that business is carried on, notwithstanding any change that may have taken place in his or her name, provided there is no fraud in the use of such former name. Nor is there any legal necessity for adding the words "and Company" or "and Co.," or similar words to a proper name in order to entitle a person in trade to use such former name, as a trade name in his or her business, and a trading firm need not consist of more than one person.

Thus it is clear, if this person had originally established herself in business as Mrs. M. A. Ludlam, being then a widow, and rightfully bearing that name, and if she had subsequently married again, and her second husband had died, she might, with perfect legality, have resumed business in the name of M. A. Ludlam, whatever name she might have acquired by her second marriage.

3rd.—The circumstance that her second husband is still living, and that she, for ordinary purposes unconnected with her trade, is called Mrs. McEvoy, can make no difference in this respect. If entitled to trade at all, she is as much entitled to use her former trade name of M. A Ludlam, as her present name of M. A. McEvoy; provided the former name be not assumed for purposes of fraud or deception, which there seems no ground for imputing in the present instance.

4th.—The question of the name under which Mrs. McEvoy is authorized to trade, is quite distinct from the question, whether she is entitled to trade at all on her own account and independently of her husband, or what security the public has in dealing with her in trade. In many cases there is great practical difficulty as to this, where a married woman, being a European British Subject, carries on business apart from and without the knowledge or consent of her husband, she is not herself personally liable for any debts she may contract, except to the extent of property settled to her separate use; and unless her husband can be shown to have authorized or adopted her acts in trading, he cannot be held liable. But where, as appears to be the case here, the husband has expressly assented, or even where he has implied by assent (as he must be taken to do, when he knows of the wife carrying trade, does not object or derives himself benefit from it) to her carrying on trade he must be taken to have adopted that trade as his own, and to constitue her his agent for carrying it on so as to render himself personally liable for her acts in the course of conducting the business. If it be true, as stated by Mrs. McEvoy, that Mr. McEvoy by deed or settlement authorized her to carry on the business in the name of M. A. Ludlam, there can be no doubt, I think, either of his liability for any trade debts she may incur in that name, or of the legality of the business thus carried on through her Agency.

5th.—It is not stated in respect of what particular dealing or documents the objection has arisen. The right of the lady to use the name of M. A. Ludlam, and to bind her husband by her signature, is limited. I think to dealings in, and incidental to her trade as a Milliner, or in any business engrafted upon that trade, which it can be clearly shown, Mr. McEvoy has authorized her to carry on. In any other dealings the ordinary disabilities of a married women would apply, whether she signed in the name of Ludlam or of McEvoy.

6th.—In English Courts, a suit would not be entertained by Mrs. McEvoy in her own name, without joining her husband as a co-plaintiff, and in many cases it would be right that he should sue alone in his own name, and in suits against the firms he would be the only person against whom personally an action could in ordinary cases be brought.

W. RITCHIE,

Advocate General.

(True Copy)

H. W. DASHWOOD,

Register.

(COPY.)

CIRCULAR No. 11.—*From* H. W. DASHWOOD, *Esquire, Register, to the Civil Authorities in the North Western Provinces.—Dated Agra, the 22nd June* 1859.

THE Court are pleased to call the attention of the Civil Authorities to Act VIII. of 1859 " for simplifying the procedure of the Civil Court not established by Royal Charter, which will come into operation on the 1st July next. From that date the procedure of the Civil Courts will be governed by that Act only, except in the case of a pending suit in which it may appear to the Court that, the application of the provisions of the Act would deprive any party of a right; in which case provision is made by Section 387 for the adoption of the rules previously in force.

2.—The Rules of the Code are so clearly expressed, that the Court believe that no Native Judge, who carefully considers them with reference to the various points in which they differ from the present rules of practice, can fail to understand the new procedure. At the same time the Court are of opinion that, it would be advisable when it can be done, for the Zillah Judge to assemble the Native Judges, and discuss with them *seriatim* the rules of the new Code, and the points on which it differs from the Old Law.

3.—The Court would more particularly call the attention of the Judges to Chapter III. which treats " of a suit till final decree. " It will be observed, that the Act entirely dispenses with the series of pleadings required by the present Law. And although it admits of brief written statements of facts being received by the Courts at the first hearing, it evidently contemplates that the issues of Law and fact should be gathered from the oral examination of the parties, or other authorized persons who may be able, and attend in order to answer questions on their behalf, rather than from the written statements prepared by pleaders. In the generality of cases which come before a Sudder Ameen or Moonsiff, the Court have no doubt that the facts will be better ascertained from the oral examination of such parties confronted with each other than by plausible written statements of professional pleaders.

4.—The Court remark, that some labor will devolve on the presiding Judge, at the first institution of the suit under the new Code than under the old procedure. It is, however, calculated in the end to save both time and trouble. On receipt of the plaint it will rest with the Court to see that it is properly drawn up, that it discloses a cause of action, and a subsisting right of action, and that the Court has jurisdiction; in issuing summons to the defendant, the Courts are called on to determine whether the summons shall be for the settlement of issues, or for the final disposal of the suit. This will require the exercise of a sound discretion on the part of the presiding Officer, as well as sufficient acquaintance with the leading points of the case.

5.—The Court think it probable, that at first some opposition and difficulty will be experienced in the practical working of this Chapter.

Parties will endeavour to avoid personal attendance, and pleaders will be loath to give up their habit of writing diffuse and argumentative statements. But the Court trust to the vigilance of the Zillah Judges to see that the fundamental principal of the Code, viz., the ascertainment of the matter in dispute from the oral statements of the parties themselves, instead of from garbled and diffuse pleadings, be fully carried out in practice.

6.—The Court will expect the Zillah Judges in reviewing appeals from the decisions of their subordinates, carefully and promptly to notice any material deviation on their part, from the course of procedure prescribed by this Act, and in reporting upon their official conduct at the end of the year, prominently to bring before the Court the names of those Native Judges whose proceedings may appear to have evinced the greatest intelligence and attention in giving effect to the terms of the Act accord-

ing to its spirit and intent, or the reverse. The Zillah Judges should also act on this rule, when they receive for deposit in their record offices the misls of cases first decided under the provisions of this Act.

7.—Instructions will shortly be issued in regard to the modifications rendered necessary by this law in the forms of the present Quarterly and Annual Statements and Civil processes, but the Court direct the immediate preparation in every Civil Court of a Register of Civil Suits in the form prescribed by Schedule A. of the Act; the form of summons (Schedule B.) will forthwith be adopted, and each appellate Court will prepare and keep up the Register of appeals prescribed by Schedule C.

CIRCULAR No. 12.—*From.* H. W. DASHWOOD, *Esquire, Register, to the Civil and Sessions Judges in the North Western Provinces, Commissioner of Kumaon, Sessions Judge of Saugor and Nerbudda Territories, and the Commissioner of the Shansie Division.*—*Dated Agra, the* 22*nd June* 1859.

THE Court having noticed considerable irregularity on the part of several Civil and Sessions Judges in these provinces, in the submission of their Quarterly and Monthly Civil and Criminal Statements, notwithstanding repeated injunctions on this head, contained in letters addressed to individual Judges, and in the Circular No. 6, issued on the 7th September 1858, are pleased, once for all, to direct your attention to the rule contained in paragraphs 4 and 5 of their Circular Orders (Civil) No. 28, dated 21st December 1858, from which you will perceive that you are expected to submit your Monthly (now Quarterly) Civil Statements within ten, or at the furthest fifteen days from the date of their becoming due. Few Zillah Judges act up to this rule, and some habitually exceed the period therein specified by many days. One Officer for instance, admitted his Statements for the first Quarter of this year on the 15th June, or two months after the proper day. It is evident that such delay nullifies the advantages sought by these returns, and entirely defeats the object for which they are required. For the future, therefore, the Court expect to receive your Civil Statements not later than the 20th of the months following the close of the several Quarter, that is April, July, October and January.

2*nd.*—In the Criminal Department the Court see no reason why your Sessions Statements Nos. 1-10 which, with the exception of Statement No. 3, still continue under Circular Order No. 122, January 24th, 1855, to be submitted monthly, should not be prepared by the 15th of the month following, that to which they relate. There is also no occasion for you when you have prepared your own returns for the months which close the Quarters to defer their Despatch till the receipt of the Magistrate's Statements for those Quarters; your Returns and those of the Magistrate being independent of each other. The Court, therefore, lay it down as a rule, that your Criminal Statements are to be despatched to their Office on or before the 15th of each month.

3*rd.*—The Court earnestly enjoin upon you the strict observance of the instruction herein conveyed, and any systematic disregard of them will render it necessary for them to bring the name of the Officer concerned, to the notice of Government.

CIRCULAR No. 16.—*To the Civil Authorities in the North Western Provinces. Dated Agra, the 15th July* 1859.

THE Court are pleased to extend to these Provinces, the accompanying Circulars issued by the Presidency Court, under date the 27th ultimo, communicating instructions as to the mode of ascertaining whether appeals, filed in the Sudder Court, under Act VIII. 1859, have been presented within time, and what time shall be allowed in the account as having been consumed in procuring copy of the decision appealed against.

CIRCULAR No. 15.—*To the Civil Authorities in the Lower Provinces, and the Deputy Commissioner of Huzareebagh. Dated the 27th June* 1859.

With a view to the speedy and correct ascertainment, whether or not any appeal, filed in this Court, under Act VIII. 1859, have been presented within time, and what time must be deducted from the account, as having been necessarily consumed in procuring copy of the decision appealed against, which, it is enacted, must accompany every appeal; the Court have ruled, that the time "necessary for procuring copy of any decision appealed against, shall be considered to be the time elapsed between date of presentation of petition in the lower Court for copy thereof, and date of delivery of the same, or of certificate, that it was ready for delivery to the petitioner, exclusive of those two dates;" and they therefore request that, on the back of every such copy, granted to any party, under Section 198, you will note the date of presentation of petition for the same, and the date of delivery, or on which the copy was ready for delivery to the party.

CIRCULAR No. 17.—*To the Civil Authorities in the North Western Provinces. Dated Agra, the 23rd July* 1859.

The Court have reason to believe, that notwithstanding the issue of numerous Circulars, pointing out the requirements of Acts XII. 1843, and XXXIII. 1854, the rules thereof are in practice superficially regarded, and this, the Court regret to say, not only by the Native Judges, but in some few instances by Zillah Judges, who were bound to set a better example to their subordinates.

2. From some cases which have lately been before the Court, they are led to think that it is not an unfrequent practice with some Officers to dispose of a case orally, and on some subsequent day, and sometimes after a considerable interval of time, to prepare their written decision, assigning to it the date on which the parol decision was made, or, in other words, antedating it. So irregular a practice, the Court remark, could only obtain where the Zillah Judge's practice or supervision is improperly lax.

3. The Court would therefore call the attention of all Civil Officers, subordinate to them, to the provisions of Sections 183 and 185, Act VIII. 1859, which are virtually the same as the rules contained in Act XII. 1843. Section 183 declares, that "the judgment shall be pronounced in open Court, either immediately or on some future day, of which due notice shall be given to the parties or their pleaders," while by Section

185 it is prescribed, that the judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it.

4. It will be seen then, that the law requiring decisions to be written in the vernacular of the Officer passing the same, is limited to three distinct provisions:—

1*st.*—That the judgment be pronounced in open Court.

2*nd.*—That it contain the points for determination, the decision thereupon, and the reasons for the same.

3*rd.*—That it be dated and signed in open Court, at the time of being pronounced.

5. The requirements of the law will be fully acted up to, if these three provisions are complied with, but in calling the attention of the subordinate Courts to what the law makes imperative, the Court does not wish it to be understood, that the law requires the decision to be written in open Court; a Judicial Officer is at liberty to write it at home; he is only prohibited from giving it out until he has written it. At the same time the Court would not deter Officers from writing their judgments in open Court when able, and inclined to do so.

H. W. DASHWOOD,

Register.

CIRCULAR No. 22.—*To the Civil Judges in the N. W. P., Agra, Dated 9th September* 1859.

THE following modification of paragraph 2, of the Court's Circular Order No 170, dated the 22nd March 1852, and additional rule for the examination of Candidates for the offices of Moonsiffs and Pleaders, are, with the sanction of Government, promulgated.

2*nd.*—The Divisional Committees for the examination of Candidates for a first class Diploma as pleader, will be held in future at the head quarters of each Commissioner's Division. The Magistrates of Bareilly, Meerut, Allahabad, Agra and Benares, will be added to these Committees, and the Secretary, Sudder Board of Revenue, will be *ex-officio*, a member of the Allahabad Committee.

3*rd*—Candidates for first class Diplomas are required to attend for examination at the head quarters of the Division in which they reside. A resident of one Division will not be permitted to appear before the Committee of another Division.

CIRCULAR No. 29.—*To the Civil Judges in the North Western Provinces. Dated Agra, the 16th November* 1859.

AS instances have occurred in which inconvenience and delay have been caused by the difficulty or impossibility of ascertaining the names of Europeans or East Indians when written in the Persian character only, the Court are pleased to direct, that all names of Europeans or East Indians, which may be entered in processes, directed by any of the Civil Courts to other districts, shall, whenever it may be practicable, be written in the English as well as in the Persian character.

CIRCULAR No. 30.—*To the Civil Authorities in the North Western Provinces. Dated Agra, the 15th November* 1859.

THE Court are pleased to prescribe the subjoined Forms of Certificate, adopted by the Presidency Court, for use in cases under Act XL. of 1858:—

A.

Form of Certificate under Section 7, Act XL. 1858.

Whereas this Court has, under the provisions of Section 7, Act XL. 1858, been pleased to appoint you A. B. to administer to the estate of C. D., at present a minor during the period of his minority, subject to the power of revocation vested in the Court, by Section 21 of the Act aforesaid; you are hereby authorized to take charge of the property of the minor in trust, to collect and pay all just debts, claims and liabilities due to, or by the estate of the minor; to institute or defend suits connected with that estate, and generally to do and perform all acts, which may be necessary to the due discharge of the trust vested in you; provided always, that you shall not sell or mortgage any part of the estate, belonging to the minor, and that you shall not grant any lease for a term exceeding 5 years, without the express sanction of this Court, previously obtained; and that you shall keep regular accounts of your receipts and disbursements with all vouchers and other documents necessary to establish their correctness. (If the person administering is himself appointed guardian, then it should be "you are hereby further appointed guardian of the minor's person, and authorized to expend Rupees monthly, on account of his maintenance and education.")

B.

Form of Certificate under Section 10, Act XL. 1858.

Whereas this Court has, under the provisions of Section 10, Act XL. of 1858, appointed you A. B. to be public curator (or administrator) of the personal estate, including houses, gardens, and the like, belonging to C. D., a minor, and to continue to administer to such estate during his minority, at a salary of Rupees or Commission at per cent. on all sums received and disbursed by you on account of the minor, subject to the power of revocation vested in the Court; you are hereby authorized to take charge of the aforesaid minor's property, to institute and defend all actions in connection with the property, and to do and perform all acts necessary to the due discharge of the trust vested in you; you are to deliver into this Court, within six months from this date, an inventory of the immoveable property, belonging to the said C. D., and of all such sums of money, goods and effects, as you may have received on account of his moveable estate, together with a statement of all debts ascertained or believed to be due to the said estate.

You are within three months after close of the current year, and of every succeeding year, that you shall retain charge of the property of C. D., and also within three months of the termination of your trust, to furnish to this Court, an accurate account of the property in your charge, and the sums received and disbursed on account thereof, and the balance in hand, together with the vouchers and other documents necessary to support the account. You are to exercise the same powers, in regard to the management of the said property, as might be exercised by the proprietor, were he not a minor, and to collect and pay all just debts on account thereof. But you are not to sell, or mortgage any part of the immoveable property, nor to grant any lease thereof for a term exceeding 5 years, without the express orders of this Court, previously obtained. You are hereby further authorized to pay Rupees monthly, on account of the

minor's education and maintenance to X. Y. Z., appointed his (or her) guardian under the orders of this Court, dated

C.

Form of Certificate under Section 7, or Section 11, Act XL. 1858.

Whereas under Section 7, or Section 11, Act XL. 1858, you have been appointed to be guardian of C. D., now a minor, during the period of his minority, or until this Certificate be revoked, you are hereby required to take charge of the person of the said minor, and to provide suitably for his maintenance and education, for which purpose you will receive from the Public Curator (or administrator of the estate) a monthly sum of Rupees , and you are hereby authorized to receive a personal allowance of Rupees per mensem, as a remuneration for your trouble and responsibility.

CIRCULAR No. 21.—*To the Civil Authorities in the North Western Provinces. Dated Agra, the 19th November* 1859.

THE Sudder Dewanny Adawlut, North Western Provinces, are pleased to publish, for the guidance of the Civil authorities subordinate to them, the annexed Circular No. 23, dated 29th July 1859, issued by the Presidency Court, communicating instructions and adopting forms, under Act VIII. of 1859:—

CIRCULAR No. 23.—*Fort William, 29th July* 1859.

In order to prevent, as far as possible, any diversity of practice in carrying out the provisions of Act VIII. of 1859, the Court are pleased to direct your attention to the following points:—

2. As all suits are in future to be instituted in the Court of the lowest grade competent to try them,* it follows that they can rarely, if ever, be instituted in the Courts of the Judges or Additional Judges.

* Section 6.

3. These Courts, however, continue to possess the power of withdrawing suits instituted in the subordinate Courts, and trying them in their own, whenever they may see sufficient cause for doing so. This power affords them opportunities of instructing the lower Courts practically in the procedure of the new Code, which the Courts expect that they will not neglect.

Section 6.

4. The institution of a second suit in another Court, for the same cause of action, during the pendency of the first suit is, you will observe, no longer punishable by dismissal of the second suit, as was the case under Section 12, Regulation III. of 1793; but, under Section 6 of the Code, the superior Courts have the power of transferring such second suit to the Court in which the first suit is being tried.

5. The misjoinder of two or more causes of action also no longer subjects the plaintiff to a nonsuit. Under Section 9 of the Code, the Court will, in such cases, direct that those causes of action, which cannot conveniently be tried together, shall be tried as separate suits. It will be necessary to take care in these cases, however, that the original institution fee is sufficient to cover all the different causes of action in the plaint.

6. Upon a plaint being presented, the Judge or other presiding officer should note or cause to be noted on the back, the date of presentation, and whether it has been presented by the plaintiff in person, or by his authorized agent or pleader.

7. He should then examine the plaint carefully, to see that it contains the particulars specified in Section 26, that it is not unnecessarily prolix; and that it is verified in the manner directed in Section 27.

8. The personal attendance of the plaintiff in Court for the purpose of verification is unnecessary. He may make the verification and sign the plaint where he pleases. He must present it, however, in Court, either in person, or through a duly appointed pleader, unless he is not within the jurisdiction of the Court, in which case alone he is authorized, under Section 16, to appear by a recognized agent. The pleader must sign the plaint, but is not required to verify it. In all these cases the plaintiff, however, is responsible for the statements contained in his plaint.

9. Under Section 28, the Court, in the event of plaintiff's absence, or for other good cause, may allow the verification to be made by any person they consider competant. Care must be taken, however, that this provision is not abused. Good cause must always be shewn for non-verification of the plaint by the plaintiff himself, and no person should be considered competent to verify, who is not *personally* acquinted with the facts of the case.

10. The attention of the Courts is particularly directed to the specimens of plaints contained in Section 26; and to the necessity of great firmness at first, in order to check the tendency to prolixity which the mookhtears and others, who have hitherto been in the habit of drawing up plaints, will doubtless evince. When the plaint contains any argument or anything beyond a concise statement of the points enumerated in Clauses 1, 2 and 3 of Section 26, it should invariably be returned for amendment, or in extreme cases, rejected.

11. The presiding Officer should next consider whether the plaint is inadmissible on any of the grounds indicated in Sections 8, 9, 30, 31, 32 or 33.

12. If he finds it necessary to reject the plaint, he must record a judicial order to that effect in his own vernacular, with his reasons for such order, either on the back of the plaint or on a separate paper; and the plaint, with the judgment and any deposition of the plaintiff or his pleader or authorized agent which may have been taken, will then be deposited in the record-room of the Court in the usual manner.

13. If a plaint is returned to the party presenting it for amendment, the date of its presentation and return, the name of the party presenting it, and a concise reason for its return, such as "too prolix," or "argumentative" "no jurisdiction in this Court," &c. shall be endorsed upon it, before it is returned, and signed and sealed by the presiding Officer.

14. A register shall be kept of all returned, and another of all rejected, plaints, in the following form :—

1	2	3	4	5
Date of presentation.	By whom presented.	Ground of { Return / Rejection } concisely stated.	Date of { Return. / Rejection. }	Signature of Judicial Officer.

15. These Registers should be bound, the pages numbered, and each page stamped with the Court's seal. They should be filled up on the bench by the serishtadar or other head Officer present, when the order is passed; and the Amlah should not be permitted to fill them up afterwards or in a separte room from the presiding Officer.

16. If the plaint is unobjectionable, the Court in which it is presented must next consider, whether it is necessary to take security from the plaintiff under Section 34 or 35, or to apply to the zillah Sudder Court, under Sections 11, 12 or 13, for authority to proceed with the trial of the suit.

17. If the Court considers the plaint admissible at once, an order must be recorded for its entry in Register A.; and a memorandum should also be endorsed on it, at the same time, of the documents which the plaintiff has filed along with it, together with the names of the persons presenting them. This is of great importance, as documents not filed with the plaint are inadmissible afterwards, except on cause shewn.

18. When parties claim to appear as pleaders or authorized agents, their vakalutnamahs or powers of attorney should, where practicable, be filed, in original, with the plaint; where the power of attorney is a general one, a copy should be filed, and the original presented for verification.

19. When copies of documents are filed under Section 39, the serishtadar or head Officer of the Court will, as a general rule, compare them with the originals, and certify on the face of them that he has done so, and that they correspond. Copies of important documents, such as wills and deeds, on which suits are founded, should, however, be verified by the presiding Officer himself.

20. When the order is passed for registering the plaint, the plaintiff must next deposit with the Nazir, the fees necessary for the summons of the defendant or defendants, according to the table of fees suspended in the Court-room, and no process will issue until he does so.*

* Section 23.

21. If the plaintiff wishes the defendant to be required to produce any document, it will be observed that he must file a description of it with his plaint, in order that the summons may be framed accordingly. Under the provisions of Section 107, however, he is not precluded from serving the defendant with a notice for this purpose at a latter period.

Section 40.

22. There does not appear to be any penalty under Act VIII. of 1859, for delay in proceeding with a suit. The plaintiff therefore cannot be required to take out a summons within any fixed period.

23. On the Nazir reporting that the fees have been deposited, the Court should fix a day without loss of time for the appearance of the defendant. This is a matter which will require considerable care and attention, especially if the parties are to appear in person; for it is very desirable that postponments should take place as seldom as possible; and that, as a general rule, causes should always be heard upon the day fixed. The date specified in the summons also ought in all cases to be so far distant, as to afford the defendant ample time to prepare his defence. No general rule can be laid down on this subject; but the Court issuing the summons ought particularly to take into consideration the nature of the case, whether simple or complicated, slight or important, and the state of its own files, together with the particulars noted in Section 45.

Sections 41 and 45.

24. A memorandum book with columns for each Court-day in the year, shewing the cause set down for trial on each date, will greatly facilitate a decision on this point, and should invariably be kept. A cause list setting forth the day fixed for the hearing of each cause ought also to be suspended in the Court-room for the information of parties and their pleaders.

25. In determining whether the summons shall be for the settlement of issues only or for the final disposal of the case,* the Court must of course be guided entirely by the nature of the suit, and the probability or otherwise of the facts stated in the plaint being disputed by the defendant on grounds which will require the production of much evidence, or will involve much forensic contention. Where the case appears simple, and it seems probable that a correct judgment can be formed at the first hearing from the examinations of the parties, or their agents, and such evidence, oral or documentary, as they can bring with them, the summons will of course be for a final disposal of the case at the first hearing.

* Section 41.

26. Much discretion will be required in the exercise of the powers vested in the Courts by Section 42, of compelling the personal attendance of the plaintiff or defendant. On the one hand, it is important that this power should not be used so as unnecessarily to harass suitors. On the other it is one which, if exercised judiciously, will tend to curtail litigation, and will enable the Court to arrive at more satisfactory conclusions than would otherwise be possible. The best general rule which can be laid down on this subject, probably is, that parties should only be summoned in those cases where it seems certain that they must have a better personal knowledge of the facts than any one else, and where facts are disputed, the correct determination of which is essential to the formation of a satisfactory judgment. To summon a zemindar in many of the disputes which arise between himself and his ryots, would generally be a vexatious proceeding, because men of this class usually conduct their affairs through the agency of others, and would, therefore, be unable to give direct testimony; but in cases where the question is, whether the defendant personally executed a certain deed, or made the contract which the suit seeks to enforce, the interests of justice clearly require that the party himself should be brought into Court.

27. A wide discretion, however, is left to judicial Officers in this matter; and the Court would impress strongly upon the Zillah Judges the importance of watching carefully the manner in which it is exercised by the lower Courts.

28. The provisions in the new code regarding the service of summons should be carefully explained to the Nazir of the Court and his subordinates. They differ in many respects from the old law.

29. The form of injunction under Section 92 will be as follows:—

Court of the Principal Sudder Ameen, Zillah 24-Pergunnahs.

No. 220 of 1859.

RADHAMOHUN BANERJEE, ... *Plaintiff,*

versus

KHETERMOHUN SHA, ... *Defendant.*

Suit for possession of 10 biswahs, 2 chittacks of land, with houses and trees, in mouzah Rampore, pergunnah Myda.

Khettermohun Sha, of mouzah Rampore, pergunnah Myda, take notice.

Whereas it has been shown to the satisfaction of the Court, in this suit, that the property in dispute is in danger of being alienated by you, *or* (that you are about to damage the property in dispute by *cutting down the trees*) or (*removing the houses*). Now, therefore, you are hereby commanded to refrain from (*doing the act complained of*): herein fail not.

Given under the seal and signature of the Court, this 21st day of August, 1859.

Seal of Court.

Principal Sudder Ameen.

30. The heading of the injunction under Section 93 will be the same as the foregoing, but the preamble will be as follows:

Whereas application has been made to this Court by Radhamohun Banerjee, plaintiff, in the suit abovementioned, for an order to restrain you from [*the injury or breach complained of.*] Now, therefore, you are hereby commanded, on penalty of imprisonment, to refrain from repeating *or continuing* the act complained of, *or* [from committing any further breach of contract] *or* [injury] arising out of the contract now being litigated in the suit abovementioned, *or* [with reference to the property or right] now under litigation in the above suit: you are also hereby commanded to keep true accounts for the Court's inspection, of all sums, receipts and disbursements in connection with the { contract / property / business } aforesaid, and you are warned that this injunction will continue in force from the 20th day of Assin, 1267, [September, 1859,] to the 1st of Maugh, 1267, [January, 1859.]

Given under the seal and signature of the Court, this 21st day of August, 1859.

Seal of Court.

Principal Sudder Ameen.

31. These forms must of course be varied to suit particular cases; but the general character of the forms should, in all cases, be preserved, and care should be taken that whatever the defendant is enjoined to refrain from doing, should be expressed in clear and precise terms, so as not to admit of any doubt.

32. It will be observed, that no specific penalty is attached to disobedience of an injunction under Section 92. In all cases, however, either of actual, or threatened disobedience to the order of the Court, it can, if it think it necessary for the preservation or better management or custody of the property, appoint a receiver, or give such other orders of a like character for the prevention of waste or alienation, as it may consider advisable.

33. It will be observed, that the chapter on the death, marriage, and bankruptcy of parties, (Sec. 99 and following Sections) introduces a very important change into the procedure of our Courts. Hitherto when a plainitff or defendant died during the pendency of a suit, the suit itself was placed in abeyance, and it was necessary for the Judge to issue notices, calling on the legal representatives of the deceased to appear. Under the new code there need not, in the majority of cases, be any interruption to the suit, and it is left to the parties themselves to move the Court to substitute the name of the heir or representative for that of the deceased. There is no doubt that these provisions will prevent much of the delay which has hitherto occurred in the disposal of civil suits.

34. Under Sections 111 and 112, it will be seen that cases cannot be decided *exparte* until the Court is satisfied either by the evidence of the parties serving the process, or other proof, that the summons has been duly served on the defendant according to some one of the modes of service specified in the chapter on service of summons.

35 It will be understood, that even although the defendant does not appear, the plaintiff must prove his case to the satisfaction of the Court before he can obtain a decree. The defendant also, it will be observed, may apply for an order to set aside

the *exparte* judgment at any period between the date of the judgment and the 30th day after process has been taken out for its enforcement.

36. The provision in Section 115, which admits of one plaintiff or one defendant appearing and acting for other plaintiffs and defendants, on filing a written authority in Court, is a new one, and should be noted.

37. The only case in which a defendant is compelled to put in a written statement without the order of the Court is, where he desires to set off a claim of his own against the debt claimed by the plaintiff. In other cases, it is discretionary with him to file a written reply or not as he thinks proper.

38. The Court has the power of calling for written statements in all cases, where it may consider it necessary to do so.

39. But this power should only be exercised, as a general rule, where the cases is complicated, or defendant is not present in person.

40. It should be carefully borne in mind, that all written statements must be subscribed and verified by the parties themselves, or the competent persons referred to in paragraph 9, and that any wilful falsehood contained in these statements subjects the subscriber to a prosecution for perjury.

41. With regard to the examination of the parties at the first hearing of the suit, it is only necessary to point out that (except in cases which are to be finally diposed of at the first hearing,) the examination should be limited to obtaining from each party a clear statement of the facts on which he relies, and ascertaining from him the exact points on which he and his adversary are at issue. If either of the parties has put in a written statement, it will only be necessary to question him regarding any allegations in that statement, which appear obscure, or any facts alleged by his adversary which he has not fully noticed. Where the parties are represented by pleaders or agents who have not put in a written statement, it will probably be most convenient to allow them to make a concise statement of the facts of their client's case in the first place, questioning them afterwards on those points of difference between their adversaries and themselves on which they do not appear to have been sufficiently explicit.

42. Cross-examination by the pleaders on either side ought not to be permitted at this stage of the proceedings. The examination is to be wholly by the Court.

43. The power vested in the Courts by Section 127 of summoning the parties to answer particular questions is only to be exercised where the question is material to one of the issues in the case, where the pleader has been unable or has refused to answer it, and where the Court has reason to believe that the party himself, if present, could answer it of his own knowledge. The Court, therefore, in all cases where the summon parties under this Section, will be careful to record the question or questions, the pleader's inability to answer which has induced them to summon the parties, and the grounds of their expectation that the party summoned will be able to answer them.

44. When the issues are framed, the Court may either dispose of the case at once after hearing argument and evidence, or may fix a day for the production of evidence and for argument on the issues. In the latter case the issues and the notice to attend will be recorded in the following form: —

Regular Suit No. 18, Ram Chunder, plaintiff, *versus* Sham Chunder, defendant In this case the issues are—

In bar of suit arising on the plaint [or plaintiff's statement.]

1 ——————————

2 ——————————

3 ——————————

4 ——————————

Of Fact.

1 ——————————

2 ——————————

3 ——————————

4 ——————————

Of Law arising out of fact found.

1 ————————

2 ————————

3 ————————

4 ————————

The above issues were settled by the Court at the first hearing of this case, on the ———of———when the following persons were orally examined,———

The case stands adjourned for the final hearing under Section 172, till the——— of ———when both parties are required to have their witnesses in attendance at this Court, at 11 A. M.

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45. The Courts will take notice of the provisions of the Code (Section 155 and 159) which allow service of a summons to a witness to be made on any adult male member of his family residing with him. It is not meant by this provision that service on a personal enemy of the witness would be sufficient service on the witness, merely because they occupied the same homestead. To render the services a good service, the parties must be *bond fide* living together in commensality, or at least in the same house. Care will be necessary to prevent this Section being taken advantage of for purposes of fraud.

46. Under Section 159, it will be observed that, in future, witnesses who keep out of the way so that they cannot be served, are not to be proceeded against without proof that their evidence is material, and their property is not to be attached, except at the instance of the party summoning them.

47. The lower Courts should pay particular attention to the rule in Section 172, which requires that all evidence shall be taken under the personal superintendence of the Judge; and that if he does not write it down himself, he shall make a memorandum of the substance, which he shall sign and file with the record, recording the reason of his inability, whenever he is unable to do so. The zillah Judges will take notice of all violations of this rule, which come under their notice.

48. The authority conveyed in Sections 180 and 181, to appoint suitable persons to make local investigations, or to investigate accounts, and to charge their expenses to the party, at whose instance and for whose benefit they are appointed, is a most valuable one, and it will be the fault of the Courts, henceforward, if they employ any other than well-qualified and trustworthy persons to perform these duties.

49. It will be seen that there is a material difference in the mode in which the Court may deal with the reports of Commissioners appointed for local investigations under Section 180, and of those appointed to investigate accounts under Section 181. The report, in the former case must be received as evidence, although the Commissioner may be examined touching his proceedings, and the Court may, of course, attach its own weight to the evidence; but in the latter case, the Court may instruct the Commissioner to submit his proceedings with or without a report, or if dissatisfied with his proceedings, may direct further enquiry.

50. The decree (Section 139) is, it will be seen, altogether distinct from the Judgment, although it also must be signed by the Judge. The form will be as follows: —

Court of the Principal Sudder Ameen of the 24-*Pergunnahs.*

Dated 20th August 1849, No. 220 *of* 1859.

RADHAMOHUN BANERJEE, son of RAJKISSEN BANERJEE, inhabitant of Mouzah Andool, Pergunnah Myda, *Plaintiff*,

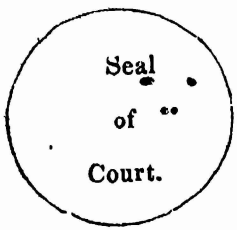
versus

RAJKISSEN BHUTTACHARJ, son of DENONATH BHUTTACHARJ, inhabitant of Rampore, Pergunnah Myda, *Defendant.*

Suit for (extract particulars of claim given in the register of the suit.)

This cause coming on to be heard and debated this present day before Baboo———,

Rai Bahadoor, Principal Sudder Ameen, of Zillah 24-Pergunnahs, in the presence of Baboo Gour Doss Bysackh, counsel for the plaintiff, and Moonshee Abbas Ali, counsel for the defendant, (or if the parties appear in person, mention their names) and the evidence, oral and documentary, produced by the plaintiff and defendant respectively, having been heard, and due consideration having been given to what was alleged by the counsel (or by the parties) on both sides, the Court orders and decrees that (here state the decretal order in terms of the judgment where costs are awarded, give a detail of the cost which either party is to pay, and insert the other particulars required by the 190th and following Sections of the Code.)



Principal Sudder Ameen.

The terms of the decretal order should be carefully studied before the decree is signed, and the directions should be precise, so that there may be no ambiguity.

51. The following shall be the form of the notice, which the Court is to issue under Section 216.

Court of the————.

No.————of————.

————————————Decree-holder.

————————————Judgment-debtor.

To————, inhabitant of ————,take notice, that an application has this day been made by————, inhabitant of————, for enforcement of the decree, passed against you, on the ————————, in the suit, noted in the margin, and that you are required to appear on or before the————————, and shew cause why execution of the said decree should not issue against you, failing which, an order for execution will forthwith issue in terms of the application.

Given under my hand and the seal of this Court.

Principal Sudder Ameen.

52. Resistance of process in cases of attachment or seizure of moveable property is still punishable under Section 25, Regulation IV. of 1793, which has not been repealed. No provision has been made in the Code for the punishment of resistance in these cases.

53. The prohibitory orders in Sections 234, 235 and 236 may have the same heading as the notice in para. 51. The body of the order, however, will run thus:—

Whereas the decree-holder, in the case abovementioned, has applied for attachment of the following property, viz.————————, and it appears that the aforesaid property is at present in your possession, take notice, therefore, that you are hereby prohibited from (here give the prohibition in terms as nearly as possible of the Sections referred to, describing with precision the property referred to.)

Given under my hand and the seal of this Court.

Seal of Court.

Principal Sudder Ameen.

A slight variation will adapt these forms to the notices of attachment authorised in Section 237.

54. The attention of the Courts is called to the provisions of Sections 243 and 244, which confer on them the power of postponing, at the instance of the judgment-debtor, a sale in execution of decree, if they are satisfied that the amount may be raised by mortgage or lease. Care must be taken that this power is not so exercised as to inflict an injury on the decre-holder.

55. Sales of land paying revenue to Government are only to be made through the Collector under Section 248, in the event of the Government so directing. Where no special authority has been given by the Government to the Collector, they will be sold, as heretofore, by an officer of the Civil Court.

56. Section 260 prohibits suits for the recovery of lands, sold in execution of decree, when founded on the plea that they were purchased benamee.

57. Sections 270 and 271 introduce an important alteration in the principle on which sale proceeds have hitherto been distributed.

58. The chapters on reference to arbitration and proceedings on agreement of parties also contain much new matter, which should be noted.

59. Section 334 directs that the period allowed for appeal shall be reckoned exclusive of the time requisite for obtaining a copy of the decree appealed against. In granting copies of decrees, therefore, the lower Courts will be careful to endorse on them the date of application for copies, and the date when such copies were ready for delivery to the appellant. When the requisite stamps are not filed with the petition, the date of application must be considered to be that on which the stamps were field, and the Mohurrirs were enabled to commence the preparation of the copies. The endorsement therefore must always state on what date the stamp papers were deposited. The appellate Court should be careful to notice any delay in furnishing these copies.

60. Where appeals are preferred from decisions passed before the 1st of July, and appellants would be deprived of any right in reference to the procedure of the suit by the operation of Act VIII. of 1859, the appeal must be heard under the old law. A similar rule applies to the original trial of all suits pending, when this Act came into operation.

61. In the preceding remarks the Court have not thought it necessary to do more than to call attention to the principal features of the new Code, and to the most important of the many changes which it introduces in the old system of pro-

cedure. The Code itself must be thoroughly studied, section by section. Its success in the different Courts depends in a peculiar degree on the judgment and discretion with which it is worked by individual Judges, and neither the one nor the other can be exercised to any purpose, without a perfect familiarity with its provisions.

62. The Court request that the zillah Judges will exert themselves to preserve uniformity in the working of the Code in their respective districts, and that they will communicate freely with them whenever they experience any difficulties.

63. The Court will expect a report in July 1860, on the results of the past year's experience of the Code, in the several Courts of each district.

W. JOHNSON,
Assistant Register.

CIRCULAR No. 32.—*To the Civil Authorities in the North Western Provinces.*—*Dated Agra, the 24th December* 1859.

THE Court having reason to believe, that the terms of Section 248, Act VIII. 1859, as quoted in the margin, have given rise to some misapprehension as to the authority, by which sales of land, paying revenue to Government, in execution of decree of Court, are to be conducted, are pleased to notify, that it has been held by them in communication with the Government, that the provisions of Section 6, Act IV. of 1846, by which the Collector attaches and sells land, in execution of civil process, on the requisition of the Courts, are still in force in these provinces. On the passing of the bill, now before the Legislative Council, which repeals, amongst other Regulations and Acts, Act IV. of 1846, it is the intention of Government to issue a notification maintaining, so far as these Provinces are concerned, the provisions of Section 6, Act IV. of 1846.

"If the property to be sold shall be land, paying revenue to Government and the Government, shall so direct, the sale shall be conducted by the Collector, on the requisition of this Court.

CIRCULAR No. 33.—*To the Zillah Judges in the North Western Provinces.*—*Dated Agra, the 20th December* 1859.

THE Court are pleased to publish, for general information, the accompanying copy of a Resolution, recorded under date the 17th instant, in regard to the procedure to be observed in appeals to Her Majesty's Privy Council.

2nd.—Annexed to the Circular are copies of the orders of the Privy Council, dated June 13th and July 13th 1853, upon the same subject. Owing to the general destruction of the records and books of reference in these Provinces, it has been thought advisable to re-publish these orders for the convenience of parties, intending to prefer appeals to the Queen in Council.

(COPIES.)

Resolution of the Court of Sudder Dewanny Adawlut, North Western Provinces, under date the 17th December 1859.

Present:

H. UNWIN, ESQ.,
R. B. MORGAN, ESQ.,
Judges.

R. MONEY, ESQ.,
Offg. Judge.
M. R. GUBBINS, ESQ.,
Offg. Extra Judge.

The Court resolve that the following rules, relating to appeals to Her Majesty's Privy Council, which have been adopted by the Presidency Court, be introduced from the 1st January 1860.

RULE I.—Parties filing petitions of appeal to the Queen in Council, shall be required simultaneously with such application, or to any time before the expiration of the six months, allowed by law to deposit in Court, the certified amount of costs to be incurred in translating the record of the case, and transmitting it to England. The proper officer of the Court will certify to such parties, on application made through the Register, the probable amount of such costs, if the costs are not so certified, the appellant may pay into Court such amount, as he may think would eventually cover the expenses. If neither the amount certified, nor the probable amount of costs be deposited within six months, the appeal shall be struck off.

RULE II.—Parties wishing to appeal to the Queen in Council, cases decided on points of law, shall, in their petitions of appeal, state those points definitely. The respondents shall then receive notice to state in writing their concurrence with, or dissent from, such the appellant's allegations. In the event of both parties being agreed both as to the definite terms of the issue raised, and the definite result of the determination of them by the Court, the Court may, if it see fit, certify the appeals to be on points of law. The appellants shall file, with their petitions or separately, before the expiration of the six months allowed by law, a list of the papers they wish to be translated, and at the same time make the deposit under the provision of Rule I.

RULE III.—Within seven days from the date of the deposit, the appellant and respondent will be furnished, through their respective pleaders, with a copy of the list of the papers which make up the record of the case. Ordinarily the entire record, exclusive of merely formal documents, shall be translated; but it shall be competent to either party in the cause, within two weeks from the receipt of the lists, to indicate any documents, besides those which may have been already omitted, they consider to be of a formal character and irrelevant to any question to be determined in the course of the appeal. If the parties concur in the additional omissions proposed, the documents so indicated will not be translated; but in the event of the parties differing as to the proposed omissions, the matter will be laid before a Judge of the Court, on the first sitting after the expiration of the two weeks aforesaid, for his determination.

RULE IV.—When the deposit is made agreeably to Rules I. and II., and the order passed by the Sudder in the contested cases as to the papers which shall be translated under Rule III. the proper officer of the Court will be required to certify by estimation, within to weeks from the date of such order, whether the deposit made by the appellant will be sufficient to meet the expenses, or what further deposit will be necessary. On this certificate being filed, the appellant shall be called upon to complete the deposit so certified, within one week from the date of the order. In default of payment of the balance of deposit, the appeal will stand dismissed from the file of the Court.

RULE V.—On the concurrence of the parties being expressed with respect to the omission of formal or irrelevant documents, or upon the orders of the Court, in the Miscellaneous Department, being pronounced, as to the omission, to be made, the translation of the record shall proceed as a matter of course.

RULE VI.—The translation and examination of cases shall be given to competent parties at the discretion of the register on condition of their completing the work within a certain time fixed, which shall in no case exceed three months for translation, and one month for examination.

RULE VII.—When translators and examiners have put in the papers, the Register of the Court will get them copied fair, so as to be ready for transmission to England, within one month from the date of the return of the papers by the above-

mentioned officers. The dates on which the translators, examiners, and copyists severally deliver the papers, shall be certified by the register on the papers, or in a book kept for the purpose.

RULE VIII.—With the petition of appeal, the appellant shall put in the usual security of Rs. 4,000, either in cash or Company's paper; or if he intend to give real property in security for such costs, he shall be required to file the usual security bond duly registered; and the parties to the security shall specify distinctly the origin and ground of title asserted by the surety, and lay before the Court clear data by which the value of the property may be tested.

RULE IX.—Within one week from the date of such application, the Register will cause a proceeding to be drawn out, and signed by a Judge of the Court in the Miscellaneous Department, calling upon the Judge of the district in whose jurisdiction the lands given as security may lie, to certify to the sufficiency of such security after due enquiry, and hearing such objections as may be urged within two months from the date of receipt of this Court's order.

RULE X.—For this purpose it will be merely necessary for the Zillah Judge, instead of ascertaining questions of possession and value by the agency of his Nazir, as has been the usual practice, to pursue the enquiry himself by, first, a proclamation of the order made in the Court of the Judge and of any Moonsiff, within whose jurisdiction any portion of the property may be situate; and, next, by requiring the surety to present, *primâ facie*, proof of possession, viz., his deeds, papers and documents, and submission of witnesses personally cognizant of the fact.

RULE XI.—If the Zillah Judge find that the appellant has failed to lay before him all the materials, which are necessary for his coming to a right conclusion, in regard to the validity of the security, or if he finds, after making the necessary enquiries, that the property at best is of the nature of a doubtful security, he is to return the papers to the Sudder Court, with an expression of his opinion, within the period abovementioned. If the Zillah Judge find that an extension of the time is necessary from unavoidable causes, he may ask for an extension, and the Sudder Court, if they deem fit, may grant such extension, but only to the extent of one month from the expiration of the time mentioned in Rule IX.

RULE XII.—When the return is made by the Zillah Judge, according to the provisions of Rule IX., it will be the duty of the Register to lay the same before the Court, who will pass such order in the matter of security as may seem to them just and proper. In case of the rejection of the security so tendered, the appellant shall be called upon to deposit Rs. 4,000 in cash, or Company's paper, within six weeks from the date of such call, and in default in the payment thereof, the appeal will stand dismissed from the file of the Court.

RULE XIII.—Within ten days from the day the translations shall be ready under Rule VI., or the security shall have been accepted by order of the Court as the one or the other may happen last, the Register shall cause the papers to be transmitted to England.

RULE XIV.—On the presentation of the petition of appeal, notice thereof shall be served on the respondent, in the manner in which it is now done.

RULE XV.—If it be found, after the transcripts are ready for despatch, that the deposit made by the appellant, falls short of the expense actually incurred in the translations, &c., the proper officer of the Court will submit a statement of the deficiency, and the appellant shall thereupon be called upon to deposit the balance within the period of one week. If the money is not paid within that time, the appeal shall stand dismissed. The statement aforesaid is to be submitted by the officer of the Court within three days from the completion of the transcript as certified by the register, under the provisions of Rule VII.

XVI. The Resolution of the 14th January 1856 is rescinded. All orders upon were matters of form under this Resolution, shall issue from the Register's office, and

under that officer's signature. The Register will refer to the Judge of the Court by whom the English decision of the case was written, or who may have taken part in the decision, if present with the Court, if not, to some other Judge, for instructions on any point in regard to which he may entertain doubts, or which may not be within his competency to dispose of under the terms of this Resolution.

ORDERED.—That this Resolution be translated and entered in the English and vernacular books, and a copy be hung up at the entrance of the Court House, for general information.

Order in Council, dated 13th June 1853.

Whereas there was this day read at the Board, a Report from the Right Hon'ble the Lords of the Judicial Committee of the Privy Council, dated the 30th of May last, past, humbly setting forth, that the Lords of the Judicial Committee have taken into consideration the practice of the Committee, with a view to greater economy, despatch, and efficiency in the appellate jurisdiction of Her Majesty in Council, and that their Lordships have agreed humbly to report to Her Majesty, that it is expedient that certain changes should be made in the existing practice in appeals, and recommending that certain Rules and Regulations therein set forth, should henceforward be observed, obeyed and carried into execution, provided Her Majesty is pleased to approve the same.

Her Majesty having taken the said Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Rules and Regulations set forth therein, in the words following, videlicet;

I. That any former usage or practice of Her Majesty's Privy Council, notwithstanding an appellant who shall succeed in obtaining a reversal or material alteration of any judgment, decree, or order appealed from, shall be entitled to recover the costs of the appeal from the respondent, except in cases in which the Lords of the Judicial Committee may think fit otherwise to direct.

Appellant when successful, may recover costs of appeal.

II. That the Registrar or other proper officer having the custody of records in any Court, or special jurisdiction, from which an appeal is brought to Her Majesty in Council, be directed to send by post, with all possible despatch, one certified copy of the transcript record in such cause to the Registrar of Her Majesty's Privy Council, Whitehall, and all such transcripts be registered in the Privy Council Office, with the date of their arrival, the names of the parties, and the date of the sentence appealed from; and that such transcript be accompanied by a correct and complete index of all the papers, documents, and exhibits in the cause; and that the Register of the Court appealed from, or other proper officer of such Court, be directed to omit, from such transcript, all merely formal documents, provided such omission be stated and certified in the said index of papers; and that especial care be taken not to allow any document to be set forth more than once in such transcript, and that no other certified copies of the record be transmitted to Agents in England, by or on behalf of the parties in the suit; and that the fees and expenses incurred and paid for the preparation of such transcript be stated and certified upon it by the Register or other officer preparing the same.

Transcripts to be sent to Registrar of Privy Council.

III. That, when the record of proceedings or evidence in the cause appealed, has been printed or partly printed abroad, the Registrar or other proper officer of the Court, from which the appeal is brought, shall be bound to send home the same in a printed form either wholly or so far as the same may have been printed, and that he do certify the same to be correct, on two copies, by signing his name on every printed sheet, and by affixing the seal, if any, of the Court appealed from, to these copies, with the sanction of the Court.

Transcripts may be printed abroad.

And that in all cases in which the parties in appeals shall think fit to have the proceedings printed abroad, they shall be at liberty to do so, provided they cause fifty copies of the same to be printed in folio, and transmitted, at their expense, to the Registrar of the Privy Council, two of which printed copies shall be certified as above by the officers of the Court appealed from, and in this case no further expense for copying or printing the record will be incurred or allowed in England.

Written transcripts to be printed by Her Majesty's Printer.

IV. That, on the arrival of a written transcript of appeal at the Privy Council Office, Whitehall, the appellant or the agent of the appellant prosecuting the same, shall be at liberty to call on the Registrar of the Privy Council to cause it, or such part thereof as may be necessary for the hearing of the case, and likewise all such parts thereof as the respondent or his agents may require, to be printed by Her Majesty's Printer, or by any other Printer on the same terms, the appellant or his agent engaging to pay the cost of preparing a copy for the Printer, at a rate not exceeding one shilling per brief sheet, and likewise the cost of printing such record or appendix, and that one hundred copies of the same to be struck off, whereof thirty copies are to be delivered to the agents on each side, and forty kept for the use of the Judicial Committee; and that no other fees for Solicitor's copies of the transcript, or for drawing the joint appendix, be henceforth allowed, the Solicitors on both sides being allowed to have access to the original papers at the Council office, and to extract or cause to be extracted and copied such parts thereof as are necessary for the preparation of the petition of appeal, at the Stationer's charge, not exceeding one shilling per brief sheet.

Transcripts to be printed within a certain time.

V. That a certain time be fixed within which it shall be the duty of the appellant or his agent to make such application for the printing of the transcript, and that such time be within the space of six calendar months from the arrival of the transcript and the registration thereof, in all matters brought by appeal from Her Majesty's Colonies and Plantations, east of the Cape of Good Hope, or from the territories of the East India Company, and within the space of three months, in all matters brought by appeal from any other part of Her Majesty's dominions abroad; and that in default of the appellant or his agent taking effectual steps for the prosecution of the appeal within such time or times respectively, the appeal shall stand dismissed without further order, and that a report of the same be made to the Judicial Committee by the Registrar of the Privy Council, at their Lordships' next sitting.

Appeals may be heard in the form of a special case.

VI. That, whenever it shall be found that the decision of a matter on appeal is likely to turn exclusively on a question of law, the agents of the parties, with the sanction of the Registrar of the Privy Council, may submit such question of law to the Lords of the Judicial Committee, in the form of a special case, and print such parts only of the transcript as may be necessary for the discussion of the same. Provided that nothing herein contained shall, in any way, bar or prevent the Lords of the Judicial Committee from ordering the full discussion of the whole case, if they shall so think fit; and that in order to promote such arrangements and simplifications of the matter in dispute, the Registrar of the Privy Council may call the agents of the parties before him, and having heard them, and examined the transcript, may report to the Committee as to the nature of the proceedings.

And Her Majesty is further pleased to order, and it is hereby ordered, that the foregoing Rules and Regulations be punctually observed, obeyed, and carried into execution, in all appeals or petitions and complaints in the nature of appeals brought to Her Majesty, or to Her heirs and successors in Council, from Her Majesty's Colonies and Plantations abroad, and from the Channel Islands, or the Isle of Man, and from the territories of the East India Company, whether the same be from Courts of

Justice, or from Special Jurisdictions, other than appeals from Her Majesty's Courts Vice Admiralty, to which the said rules are not to be applied.

Whereof the Judges and Officers of Her Majesty's Courts of Justice abroad, and the Judges and the Officers of the Superior Courts of the East India Company, and all other persons whom it may concern, are to take notice, and govern themselves accordingly.

Order in Council, dated 13th July 1853.

The amount of security appears to have been fixed by Resolution or Decisions of the Sudder Courts, and since the year 1846, it has been raised to Rs. 10,000. The Lords of the Judicial Committee have not thought it expedient to interfere with this discretionary power by recommending Her Majesty to establish any fixed and invariable rule on this subject, but their Lordships are of opinion, that as the costs of prosecuting an appeal to England, will be materially diminished by the operation of Her Majesty's order in Council of the 13th June, ultimo, the security required of appellants for costs, ought henceforth to be fixed at Rs. 4,000, except in cases of extraordinary magnitude and importance, in which the Judges of the Courts of Sudder Dewanny Adawlut may think it necessary to require of the appellant, a security to a larger amount, which should in no case exceed Rs. 10,000.

(True Copies.)

H. W. DASHWOOD,

Register.

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CIRCULAR ORDERS

OF THE

SUDDER DEWANNY & NIZAMUT ADAWLUT,

NORTH WESTERN PROVINCES,

FOR 1859.

(COPIES.)

CIRCULAR No. 13, OF 1859.—*To the Judges in the North Western Provinces. Dated Agra, the 1st July* 1859.

I AM directed to transmit for your information and guidance, copies of the correspondence noted in the margin,* relative to the mode of adjusting in the public accounts deposits refunded under the operation of the Court's Circular, No. 23, dated the 27th December 1858.

2nd.—Your attention has been called by a separate Circular of this date, to the Accountant's Circular, No. 424, dated the 17th ultimo.

From Judge of Meerut, to Register Sudder Court, No. 97, dated 14th ultimo.
From Register Sudder Court, to Accountant, North Western Provinces, No. 1001, dated 20th idem.
From Accountant, North Western Provinces, to Register Sudder Court, No. 20, dated 28th idem.

No. 97 of 1859.—*From* G. D. TURNBULL, *Esq. Judge, to* H. W. DASHWOOD, *Esq., Register Sudder Dewanny Adawlut, North Western Provinces, Agra. Dated Meerut, the 14th June* 1859.

WITH reference to the Court's Circular, No. 23, dated 27th December 1858, calling attention to the Circular Order of the Sudder Board of Revenue, No. 5, of the 15th idem, I have the honor to solicit instructions as to the modes in which orders passed after due enquiry, for the refund of deposits under the rules therein laid down, are to be carried out, (*i. e.*) how such items of refund are to be adjusted in the accounts, from what department should they be paid, and to what debited.

2nd.—The Circular prescribes, that all deposits coming under the 1st and 2nd rules, are re-payable by Government; but it does not appear that Collectors are authorized, on the simple requisitions of the Civil Courts, to repay such sums, of the existence of which their own office records and accounts afford no proof; and I am in doubt as to whether I should submit separate bills to the Court for their sanction in each separate case, or how I should proceed in order to secure re-payment.

No. 1001 of 1859.—*From* H. W. DASHWOOD, *Esq., Register, to the Accountant, Nort Western Provinces, Agra. Dated Agra, the* 20*th June* 1859.

SIR,—With reference to the Court's Circular Order, No 23, dated the 27th December last, which was issued on the suggestion contained in your letter No 174, of the 17th idem, I am directed to transmit copy of a letter, No 97, dated 14th instant, from the Judge of Meerut, and to request that you will favor the Court with your opinion upon it.

2*nd*.—The Court will be obliged by your laying down some definite rules for the adjustment in the public accounts of deposits refunded under the Crcular above cited.

No. 20 of 1859.—*From* F. LUSHINGTON, *Esq., Accountant, North Western Provinces, Agra, to* H. W. DASHWOOD, *Esq., Register Sudder Dewanny Adawlut, North Western Provinces, Agra. Dated Agra, the* 28*th June* 1859.

IN reply to your letter No 1001, dated 20th instant, I have the honor to state for the information of the Court, that after due enquiry, each application for the refund of deposits, made prior to the outbreak, should be referred to this office, accompanied by a report from the District officer, as prescribed in the printed Circular of this office, No 424, dated 17th instant, a copy of which is herewith forwarded.

2*nd*.—As all the monetary transactions of the Judges pass through the Collector's accounts, payment of deposits, duly authorized, will be made at the Revenue Treasury of the district. The head of account under which payments should be charged, is "deposits" Revenue or Judicial, as the case may be. These charges, however, will appear in the Revenue Treasury accounts, as the Judges do not render accounts to my office for the reasons above stated. The Judge will, however, include the transactions in his Registers of deposits in the usual way, but without No. and date in those cases where the information is not procurable.

CIRCULAR No. 14 of 1859.—*To the Zillah Judges in the North Western Provinces, and Commissioner of Kumaon. Dated Agra, the* 1*st July* 1859.

I AM directed to forward, for your information, copy of a Circular issued under date the 17th ultimo, by the Accountant, to all officers in charge of Treasuries in the North Western Provinces, and to desire that you will observe the rule therein laid down as to the mode of reporting upon deposits made prior to the mutiny, and for the repayment of which you may require the sanction of higher authority.

I have, &c.

(Signed) H. W. DASHWOOD,
Register.

CIRCULAR No. 424 of 1859-60.—*From* F. LUSHINGTON, *Esq., Accountant, North Western Provinces, to all Officers in charge of Treasuries in the North Western Provinces. Dated Agra, the* 17*th June* 1859.

I HAVE the honor to solicit your particular attention to the orders of the Hon'ble the Lieutenant Governor of the North Western Provinces, conveyed in the

following Extract, para. 3 of letter, No. 1812, of the 10th instant, from the Officiating Under-Secretary to my address, regarding the mode of reporting upon deposits made prior to the mutiny, and for the repayment of which you may require the sanction of higher authority.

Extract para. 3. "His Honor concurs in the suggestion contained in para. 4 of Mr. Grant's letter, viz., that as in many Districts there is nothing to prove the payment, owing to the destruction of records, great care should be taken by the District officer to guard against double payments being made; that there should be a separate report in each case proposed for payment; and that the reporting officer should state, that he is perfectly satisfied that the money was not paid before the outbreak, giving his reasons for coming to that conclusion. His Honor begs that you will issue instructions accordingly to the Collector.

(Signed) F. LUSHINGTON,
Accountant, N. W. P.

(True Copy)

H. W. DASHWOOD,
Register.

CIRCULAR No. 21 of 1859.—*To the Civil and Sessions Judges in the North Western Provinces, Saugor and Nerbudda Territories, and Commissioners of Jhansie and Kumaon Divisions. Dated Agra, the 18th August* 1859.

I AM directed to transmit for your information and guidance, the annexed copies of a letter, No. 2054, dated the 8th instant, from the Secretary to Government, North Western Provinces, and of its enclosures as per margin*.

* Circular of Secretary to Government, North Western Provinces, No. 6, dated 3rd instant.
Circular of the Chief Engineer, North Western Provinces, No. 61, dated 28th June 1859, with enclosures.

I have, &c.

(Signed) H. W. DASHWOOD,
Register.

No. 2054 of 1859.—*From* G. COOPER, *Esq., Secretary to Government, North Western Provinces, Allahabad, to* H. W. DASHWOOD, *Esq., Register to the Court of Sudder Dewanny Adawlut, North Western Provinces, Agra. Dated Allahabad, the 8th August* 1859

I AM directed by the Hon'ble the Lieutenant Governor to forward the accompanying copy of a Circular, addressed to Commissioners of divisions, the Inspecter General of Prisons, the Derector of Public Instruction, and Commissioner of Customs, directing them to submit, in the forms furnished by the Chief Engineer, North Western Provinces, all projects which they wish to have executed in their respective circles, in that the agency of the Department Public Works, for inclusion in the annual Budget of the Public Works Department; and to intimate, that if any buildings in the Judicial Department should be required, other than those ordinarily executed by the Public Works Department, application must be submitted by the Court in statements drawn out according to the forms A. B. and C., appended to the accompanying Circular, No 61, dated 28th June, issued by the Chief Engineer, North Western Provinces, which will be compiled from statements of the like kind sent in by the several

Judges, in such time as to admit of the submission by the Court of the amalgamated returns, with plans and estimates of cost, by the 15th November.

I have, &c.

(Signed) G. COUPER,

Secretary to Government, N. W. Provinces.

CIRCULAR No. 6 of 1859.—*From* G. COUPER, *Esq., Secretary to Government, North Western Provinces, to Commissioner of———. Dated Allahabad, the 3rd August* 1859.

I AM directed to call your attention to the Circular of the Chief Engineer, North Western Provinces, dated 28th June, No. 61, which was sent to your office direct from Agra, containing instructions for the guidance of Executive Engineers in preparing projects, &c., to be included in the Budget, required from the Public Works Department, in the North Western Provinces; and to request that you will render these officers your hearty co-operation, and call upon your subordinates to do the same.

2nd.—I am desired also to request, that you will submit, by the 15th of November next, in the same forms as those annexed to the Chief Engineer's Circular, (omitting, however, "sections" and "subdivisions," such as "Military," "Commissariat," &c., which are of course inapplicable to your returns) all projects which you wish to have executed within your respective Circles, *without* the agency of the Public Works Department, during the ensuing official year of 1860-1861. The cost of all such works is a Public Works charge, though it has hitherto never been exhibited as such; and all such works should be included in the annual Budget which this Government submits to the Government of India.

3rd.—There are many works of this kind. Tehseeldarees, Thannahs, Police Chowkees, Lockup houses, Jails and the like, have never been built by the Public Works Department. Many such buildings were injured or destroyed during the disturbances; the expence of replacing them will be considerable, and must be brought forward as a Public Works charge, and this can only be done by including them in the Budget.

4th.—All specific proposals for entirely new works of the above nature, must be accompanied by plans and estimates.

5th.—Under the Circular of the Department Public Works of this Govenment, No. 3, dated 7th June, and annexures, charges on account of "repairs" are required to be booked as Public Works charges, and will appear in the Statement C. annexed to the Chief Engineer's Circular, dated 28th June. They will be estimated for in a lump sum for each specific work, or series of works.

6th.—All these projects will be considered at the same time with the Revenue Statement of the Chief Engineer, and Superientendent General of Irrigation, on or as soon as possible after the 15th November of each year, and the Resolution of Government in regard to each project will be communicated to you for guidance.

7th.—The Lieutenant Governr would earnestly impress upon you the absolute necessity which exist for your submitting all projects of this nature in the form, and at the precise date indicated, viz., 15th November, except emergent works, to which the remarks and instructions of the Chief Engineer's Circular will be applicable.

8th.—In these Statements, no works chargeable to the local funds are to be included. The orders in regard to them will stand.

I have, &c.

(Signed) G. COUPER,

Secretary to Government, North Western Provinces.

CIRCULAR No. 61 of 1859.—*From Chief Engineer of the North Western Povinces, to the Officers of the Public Works Department, in the North Western Provinces. Dated Agra, the 28th June* 1859.

GENTLEMEN,—As the instructions issued from this office in 1856, for he preparation the Budget or Annual Statement of the probable Financial wants of the Public Works Department, are not generally known to the officers, at present employed in the North Western Provinces, and as in many instances the records of Executive Engineers' offices have been entirely destroyed, I have the honor to request your rattention to the following points, and to impress upon you the fact, that the officer who fails to afford the information, &c, required in this office, for the prepaation of the Budget, will be responsible to Government for any deficiencies in it.

2nd.—It has been ruled, that all estimates and projects for new works, additions, alterations, and improvements, shall be annually brought under the consideration of the Government of India, in the Budget, after having been collectively passed under the review of the Local Governments, who are prohibited from considering at any other than this one period, subjects of the above nature, unless they are really emergent, in which case they will be immediately sent up, and special orders solicited.

3rd.—The time for the review of annual requirements for Public Works in those provinces has been fixed for the middle of November (the 15th) *preceding* the official year that will come under consideration; for instance the requirements for 1860-61, will come under review on the 15th November of the present year.

4th.—You are accordingly requested to place yourself in communication with the Civil Officers, Commanding Officers, and the heads of Departments within your Division, and ascertain from them what new works, additions, alterations, or improvements may be required during the ensuing year. If you agree as to the necessity of the measures proposed by these officers, you will immediately prepare the plans, estimates, and reports necessary for giving full information regarding each project, both in reference to grounds of proposals, and to Engineering arrangements; but should you disagree regarding the necessity of any proposal, you will at once state your objections to the parties concerned, and not submit the project, unless subsequent consideration should induce you to modify your opinion, or the requiring party should specially request you to do so.

The preparation of simple estimates for carrying out additions, alterations, and improvements, should be taken up at once; but in the case of all new works or buildings, I think it desirable that the requisitions be sent to this office, accompanied by rough plans of what is proposed.

It is the desire of Government that all new buildings should, if possible, be constructed according to one fixed or standard design, and it is to save you all the trouble of preparing detailed estimates and drawings, for proposals that may be rejected by Government, owing to the unsuitableness of the designs selected; that I must advise the submission of all requisitions for new works to this office in the first instance. These requisitions would be immediately returned, if unobjectionable, but if otherwise,

approved plans would be sent to you for your guidance in drawing up detailed estimates.

5*th*.—All projects for new works, fully prepared, as laid down in the first clause of the preceding paragraph, should be despatched from your office to the Superintending Engineer by the 15th of September, in order to allow sufficient time for examination and reference, if necessary; but projects which may subsequently be called for, may be submitted up to the 15th of October; it is, however, expected, that such care and attention will, in the first instance, be given, as will limit the additional projects to those only, which could not have been forcseen.

6*th*.—It is very desirable that any projects, which may previously be received by you, should be submitted as soon as convenient, and not retained for submission at the period named; but in the case of such works, the requiring officer should be informed that the matter cannot be acted on, until it has been passed under the review of Government at the prescribed period, or been sanctioned as part of the Budget for the ensuing year.

7*th*.—Works which are considered really emergent, must be submitted at once, with full particulars, but a sound discretion should be exercised in bringing works into this Class, and any difference of opinion on this subject should be settled as laid down in para. 4.

8*th*.—Renewals of metal on roads not provided for in the actual estimates, are considered to come under the order for new works, and you are particularly requested to notice that these orders refer to all works of the descriptions named (additions, alterations, and improvements), exceeding Rs. 50 in amount.

9*th*.—Should you be of opinion that you will not be able to meet during the year all the calls on you, those works which cannot be undertaken, must be brought to notice, with a remark to this effect; and in submitting your projects, I have to request, that you will take care to state what extra assistance, if any, you will require for carrying them out.

10*th*.—The cost of extra Establishment to the executive and office must always be included in the estimate of the project for which required, the former as a part of the rates of work, the latter as a separate item, and accompanied by a detail.

11*th*.—By the 15th of November of each year, it will be necessary that you should submit rough statements in the forms A. B. and C. herewith sent:—

A. All orginal works likely to remain unfinished on the 1st May following, and the sums required to complete them.

B. Probable expenditure on account of minor, petty, and emergent works during the ensuing official year.

C. Probable expenditure on account of annual and special repairs during the ensuing official year. The two last statements cannot of course be filled up with that degree of corectness, which is necessary in preparing Statement A., and it will be sufficent for all purposes if the expenditure is estimated in the gross on the experience of the past.

12*th*.—In preparing the last two Statements, B. and C., you will be careful to observe the Departments and *Sub Divisions* as laid down in the Code at page 148.

13*th*.—A copy of this Circular will be sent to each Commisioner, and to the heads of each Department in the North Western Provinces, with a request that the subordinate Civil Officers, (Magistrates and Collectors) may be informed of what is expected of them, and of the nature of the instructions issued to Executive Engineers. Copies will also be sent to Officers Commanding Divisions and Stations, with the same object.

14*th*.—I request that you will forward a separate letter of acknowledgment on receipt of this Circular, as it is my intention to note the dates of receipt, and to reserve all estimates that you may forward after those dates, for the Budget, unless in your submitting letter, you specially request that the estimates should be treated as for emergent works.

A.

Statement of Original Works likely to be in progress on the 1st May 1860.

Description of Works.	Amount already authorized to be expended.	Actual expenditure to 31st December 1859.	Total probable expenditure up to 30th April 1860.	Proposed expenditure for the year 1860-61.	Sum required for completion.

B.

Statement showing the Probable Expenditure on account of Minor, Petty and Emergent Works, during the year 1860-61.

Station.	Section.	Subdivision.	Minor works, isolated works not exceeding Rs. 10,000 each.	Petty works not exceeding Rs. 1,000 each.	Emrgent works above Rs. 1,000 each.	Remarks.
Bareilly.	Military.	Accommodation for troops.				

C.

Statement showing the Probable Expenditure on Annual Special Repairs, during the year 1860-61.

Station.	Section.	Subdivision.	Annual or current repairs.	Special Repairs.	Remarks.
Bareilly.	Military.	Commissariat.			

(True Copy)

(Signed) H. W. DASHWOOD,

Register.

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NORTH WESTERN PROVINCES.

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CIRCULAR ORDERS

OF THE

NIZAMUT ADAWLUT,

NORTH WESTERN PROVINCES,

FOR 1859.

CIRCULAR No. 1.—*From* H. W. DASHWOOD, *Esquire, Register of the Nizamut Adawlut, North Western Provinces, to the Criminal Authorities in the North Western Provinces. —Dated Agra, the* 11*th February* 1859.

THE Court, at the suggestion of the Commissioner of the Jhansie Division, direct the entry of an additional heading, as per margin,* under letter A. of the Schedule of miscellaneous offences, to meet cases coming under the Provisions of Act XXVIII. of 1857.

* "Arms Act, breach of."

CIRCULAR No. 2.—*From* H. W. DASHWOOD, *Esquire, Register of the Sudder Dewanny and Nizamut Adawlut, North Western Provinces, to the Criminal Authorities in the North Western Provinces, Dated Agra, the* 14*th March* 1859.

THE Court of Nizamut Adawlut having had occasion to observe in several trials, which have recently come before them, either on reference or appeal, that the committing Officer had failed to submit with his proceedings to the Sessions Court, an English calendar of commitment, are pleased to call the attention of the Criminal Authorities to the provisions of Sections 13 and 14, Regulation VI. of 1803, and to direct the invariable preparation of an English calendar, in all cases committed for trial to the Sessions Court. It is the duty of the Sessions Judges to see that this requisition is fulfilled, and to return the case to the committing Officer, whenever they find, on first inspection of the proceedings, that the paper in question has not been drawn up by him.

CIRCULAR No. 3.—*From* H. W. DASHWOOD, *Esquire, Register of the Nizamut Adawlut, North Western Provinces, to the Criminal Authorities in the North Western Provinces. —Dated Agra, the* 23*rd March* 1859.

UNDER instructions from the Government, North Western Provinces, the Court are pleased to publish, for general information, the accompanying copies of a letter, dated the 24th December 1858, and of its enclosures, from the Advocate General, to the address of the Secretary to the Government of India, Home Department, relative to the liability to the Mofussil Criminal Courts of persons born in this country lawfully descended from Male European British Subjects, whose mothers, grand-

mothers, or more remote ancestresses, may not have been in any sense British Subjects.

2.—This reference having been irregularly made direct to the Advocate General, the Court would call the attention of the Criminal Authorities to the rule which requires that "All such references should be submitted, in the first instance, to the "Nizamut Adawlut, who, if they think fit, will forward them to the Government for "transmission to the Advocate General, whose opinion, when received, will be made "known to the Court for communication to the referring Officer, and for such "further orders as may appear to be necessary."

CIRCULAR No. 4.—*From* H. W. DASHWOOD, *Esquire, Register of the Nizamut Adawlut, North Western Provinces, to the Criminal Authorities in the North Western Provinces.—Dated Agra, the* 23*rd March* 1859.

THE Court are pleased to direct the entry of an additional heading, as per margin,* under letter R. of the Schedule of miscellaneous offences, to meet cases coming under the provisions of Act XVIII. of 1854.

* Railway Laws, breach of.

CIRCULAR No. 5.—*From* H. W. DASHWOOD, *Esquire, Register of the Nizamut Adawlut, North Western Provinces, to the Criminal Authorities in the North Western Provinces.—Dated Agra, the* 25*th April* 1859.

THE Court are pleased to extend to these Provinces the following Circular Order issued by the Calcutta Court, under date the 21st February 1851, and to direct that the instructions contained therein be carefully followed in all cases, in which fines are imposed under the provisions of Act. XVI. of 1850.

(COPY.)

No. 55 OF 1851.

TO THE SEVERAL SESSIONS JUDGES (EXCEPT SESSIONS JUDGE OF MOORSHEDABAD) MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.—

Lower Provinces, 21*st February* 1851.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying extract of a letter this day written by their order to the Sessions Judge of Moorshedabad, regarding the execution of orders for levying fine under the Provisions of Act XVI. of 1850.

Extract of a letter No. 140, *dated the* 21*st February* 1851, *to the Sessions Judge of Moorshedabad.*

WITH reference to the question which you put in your 3rd paragraph, the Court are of opinion that the order of a Sessions Judge, directing the levy of a fine under the provisions of Act XVI. of 1850, should not be carried into execution, until the period allowed for appeal has elapsed, and in the event of an appeal being made, until the final sentence has been passed. The same principle must be considered applicable to sentences passed under this Act by the Magistrate or his subordinates.

CIRCULAR No. 6.—*From* H. W. DASHWOOD, *Esquire, Register of the Nizamut Adawlut, North Western Provinces, to the Criminal Authorities in the North Western Provinces.* —*Dated Agra, the 2nd June* 1859.

THE Court are pleased to direct the entry of an additional heading, as per margin,* under letter C. of the Schedule of miscellaneous offences, to meet cases coming under the provisions of Act III. of 1857.

* Cattle trespass under Act III. 1857.

CIRCULAR No. 8.—*From* H. W. DASHWOOD, *Esquire, Register of the Nizamut Adawlut, North Western Provinces, to the Criminal Authorities in the North Western Provinces.*— *Dated Agra, the 11th August* 1859.

THE Court, by desire of Government, publish, for the information and guidance of the Criminal Authorities, copy of the Advocate General's opinion, on a reference from the Government of the Punjaub, as to whether European British Subjects can be compelled to give evidence in the Local Courts, and punished for refusing to do so.

Question 1.—1st. I am of opinion that any Court of Justice in the Punjaub and its dependencies, which has power to commit to prison persons subject to its general jurisdiction, has also power to punish by fine or by commitment to prison European British Subjects, who are required by it to give evidence, and who, without lawful excuse, refuse to do so.

2nd. I entertain this opinion, whether Act XXX. of 1841, relating to obstruction to justice, applies to the case of a refusal to give testimony or not.

If it does apply, it is perfectly clear, that the circumstance that the person guilty of the obstruction to justice is a European British Subject, does not exempt him from punishment by fine not exceeding Rs. 200, and in default of payment by imprisonment for a period not exceeding one month. Indeed the whole of Section I. of the Act is framed upon the assumption, that a person subject to the jurisdiction of the Supreme Court, is liable to summary punishment under the Act.

3rd. If the Act does not apply to such a case, I am still of opinion, upon general principles, that a Court in the Punjaub, or other Provinces of British India, similarly situated, has the power of visiting with fine and imprisonment, the contempt of its authority, manifested by an obstinate refusal to give evidence, whatever may be the country and the status of the witness, provided the Court be one, having the power of committing to custody persons subject to its jurisdiction ; such a power is, according to the principles of English Law, inherent to every Court of Record, whether the person guilty of the contempt be subject to its general jurisdiction or not, and to constitute a Court of Record, it is only necessary that the Court should be one, having power to award imprisonment. These principles do not rest upon any technical Rule, peculiar to English law, but upon the necessity of arming all Courts of sufficient importance to have the power of imprisonment entrusted to them, with adequate powers to protect themselves against contempt and obstruction of their proceedings, and there seems to be no valid reason why they should not apply to the Courts of this country, where no Regulation or Act prescribes a different course, as to the Queen's Courts at home.

4th. These considerations would probably have led me to a different conclusion as to the power even of the Courts of the Bengal Presidency and its dependencies, from that arrived at by my predecessor, in the opinion set out in the Circular Order of 1st February 1851, and which I need scarcely say is entitled to great weight.

But although in that case I should have hesitated much in advising, that any Court should act upon my view in preference to his, I am clearly of opinion, that there is no legal principle upon which a European British Subject, refusing to give evidence in a Court in the Punjaub or its dependencies, or in any Province not annexed to any of the Presidencies, can be exempted from the summary process of fine and imprisonment for his contempt of Court, to which all other witnesses are subject.

Question II.—5th. Whether the Act of 1841 does or does not apply to a mere refusal to give evidence, unaccompanied by any words or conduct disrespectful, or contemptuous in themselves, is an extremely doubtful question, I incline, however, to think that, although in addition to the words "using menacing gestures or expressions," the words "or otherwise obstructing justice" are used, these latter words only apply to obstructions of the same nature as those specified, *i. e.*, rather to obstructions of a physical or active kind to the Court proceeding with its business generally, than to the obstruction to the due course of justice, in a particular case, by reason of the witness not giving evidence. Had the case rested on the words of the Act alone, I should have thought, that the Act might fairly be held to apply to a deliberated and unauthorized refusal by witness in Court to give evidence when called on by the Court itself to do so. For the words used in this and the following Section, might be satisfied by supposing them to apply to all obstructions of justice, committed in the face of the Court, and thereby interrupting the due course of its regular business, as distinguished by a contempt committed out of Court, such as a refusal to attend upon a summons, or the use of disrespectful words towards the Court beyond its precincts.

6th. But on looking at the state of the law, which the Act intended to remedy, I think it clear that, in the Regulations "obstruction to justice and contempt of Court," had been treated as offences quite distinct from the refusal of a witness to give evidence. Thus Regulation IV. of 1793, Section 6, and Regulation L. of 1803, Section 2, Clause 2, which prescribe the punishment for refusal to give evidence, are left unrepealed by the Act of 1853, while Regulation XXIII. of 1814, Section 42, and Regulation XII. of 1825, Section 6, which relate to contempts of Court, and obstruction of a different kind, and which themselves had been substituted for earlier provisions empowering the Magistrate to visit such contempts or obstruction, with stripes or imprisonment, are expressly repealed by the Act of 1841. The recital too that sufficient provision is not made for repressing obstruction to justice, appears to point to such obstructions as were dealt with in the Regulation repealed as insufficient, or not dealt with in any Regulation, than to a totally different kind of obstruction, for which an adequate means of repression were provided by Regulations, which the Act left untouched.

7th. If, therefore, the power of the Court, to fine and commit European British Subjects, rested upon the Act alone, I should have thought that no such legal power existed. But as I have a strong opinion that the power exists in Non-Regulation Provinces, independently of the Acts, I do not hesitate to advise, that in any case in which a European British Subject wilfully refused to give evidence before a Court in the Punjaub, or in any unannexed Non-Regulation Provinces, having general power to imprison, the Court should proceed to fine him in a sum not exceeding Co.'s Rs. 200, the sum provided by the Act, and in default of payment, to order him to be imprisoned for a period not exceeding one month. The limits of punishment prescribed by the Act should not, in any case, be exceeded. If the Act applies, it would be illegal to go beyond them, and even if it does not apply, it affords a criterion of the extent of fine and imprisonment, which the Legislature thought reasonable. In cases where the party recusant is a rich man, to whom the fine of Rs. 200 will not be an adequate punishment, and it is thought worth while to proceed against him in the Supreme Court, it will be better to prefer a charge before a Justice of the Peace, for refusing to give evidence, and such Justice can hold him to bail to take his trial in the Supreme Court.

Question III.—8th. Under Act of 1853, an European British Subject, who refuses to give his evidence in a Civil Court is, I think, liable to the penalties prescribed by Section 24, to the same extent as any other witness. But that law only applies to the Civil Courts of the Presidency of Fort William at Bengal, and having been passed subsequently to the annexation of the Punjaub, cannot be considered as in force in that Province or its dependencies. The main features in which its provisions differ on this head from those of Act XXX. of 1841 are, that the power to fine is extended to Rs. 500, realizable from the witnesses' property, but such fine is not commutable to imprisonment; and the power to imprison is given, until the witness shall consent to give his evidence, instead of for a time certain, *i. e.*, one month on non-payment of the fine. The English law does not, in the absence of express Legislative authority, recognise this power of indefinite imprisonment, but require that a time certain should be specified in the commitment in such cases. It will not be safe, under these circumstances, to adopt the course prescribed by the Act of 1853, against European British subjects refusing to give evidence in Civil Courts in the Punjaub. But in all Courts, both Civil and Criminal, it will be safer to adopt the measure of punishment prescribed by Act XXX. of 1841, as the extreme limit in such cases. It will be open to the Court that commits a witness in default of payment of the fine imposed, to order his release before the expiration of the month, or of any shorter period of imprisonment, to which it may have sentenced him on his consenting to give his evidence.

9th. I observe that this is the course which has actually been adopted in regard to witnesses generally by the forms of Civil Procedure for the Punjaub, proposed by the Judicial Commissioner. See Section 1, Clause 12, and Section 2, Clause 4, wherein the refusal is properly treated on the footing of a contempt; I consider that the rule thus prescribed is a perfectly proper one, and that it did not require the express authority of the Legislature to warrant it. If, therefore, it has been adopted in the Punjaub, with respect to any one class of witnesses, it shall also be applied, I think, to all classes of witnesses alike, including European British Subjects, until the new law of Civil Procedure, Act VIII. of 1859, which contains a clause providing for the refusal of a witness to give evidence, Section 169 is extended to the Punjaub by the Governor General in Council.

Question IV.—10th. The right of a Justice of the Peace to fine or imprison a witness, who refuses to answer, has been doubted; but on the whole, I think, the better opinion is that, a Justice, while acting judicially and not merely ministerially, has the power. He should, however, be very guarded in his exercise of it, and should not, in any case, I think, impose a fine or a period of imprisonment, beyond the limits prescribed for the inferior Criminal Courts established by the East India Company.

Question V.—11th. I do not think that any exemption can be claimed from any of the above penalties, by reason of the European British Subject being a Soldier, either in Her Majesty's Service generally, or Her Majesty's Indian Force, except, perhaps, in the single case of a fine imposed by a Justice of the Peace, as afterwards mentioned, but Soldiers are exempt from imprisonment by the Civil Courts, for all debts not exceeding Rs. 300, and for other matters enumerated in the 52nd Section of the Annual Mutiny Act, and in the 58th Section of the Indian Mutiny Act. But from the grounds of exemption "any charge" of felony or misdemeanor, or any crime or offence, other than the misdemeanor, of refusing to comply, with an order of Justices for the payment of money, are excepted. Now, I think, the refusing to give evidence is a misdemeanor or offence, within the meaning of this Clause, and that, therefore, a Soldier cannot plead his exemption from liability to imprisonment under this provision, where the Court sentence him for such refusal I doubt, whether even in the case of an order made by a Justice of the Peace to, pay a fine, or in default to be imprisoned for the offence, a Soldier would be absolutely entitled to the exemption; but as the Justice of the Peace has power to com-

mit to prison for contempt, without imposing the alternative penalty of a fine, I think a Justice of the Peace should, if the case be a flagrant one of wilful refusal to give material evidence, commit the witness, where a European British Soldier, without imposing any fine.

12th. I think the power above described, may be exercised by a Magistrate or Justice of the Peace, acting under the provisions of Act XVIII. of 1853, for regulating the sale of liquor in Military Cantonments.

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CIRCULAR ORDERS

OF THE

SUDDER BOARD OF REVENUE,

NORTH WESTERN PROVINCES.

FOR 1859.

(COPIES.)

No. 1 of 1859.—*From* W. H. Lowe, *Esquire, Secretary to the Sudder Board of Revenue, North Western Provinces, to all Commissioners in the North Western Provinces.—Dated Allahabad, the* 11*th February* 1859.

The Government has been pleased, in orders bearing date 3rd December 1858, issued from the Foreign Department, to modify the rule in the orders of Government, in the Revenue Department, dated 15th March 1831, Appendix XXX., page 510, Directions to Collectors.

2*nd*.—Under the orders last issued, Commissioners are competent to sanction the transfer of pensions from the Treasuries of the North Western Provinces, to those of the Lower Provinces, the Punjab and Oude.

3*rd*.—In the exercise of this discretion Commissioners are required to observe the previous rule of enquiry into the grounds on which the transfer is applied for; and further as a guard against imposition, it is indispensable that in all cases a narrative of the circumstances under which the pension was originally granted or sanctioned by Government, should be transmitted with a copy of the descriptive roll, and certificate of last payment, to the Commissioner of the division and Treasury office to which such pension is transferred.

Transfer of pensions.

Board prescribe the rule to be observed by Commissioners when sanctioning such transfers.

Circular order C. of 1859.—*From* W. H. Lowe, *Esquire, Secretary, Sudder Board of Revenue, North Western Provinces, to the Commissioners of Meerut, Rohilkhund, Kumaon, Agra, Allahabad, Benares, Jubbulpoor, Jhansie, and Goruckpoor.—Dated Allahabad, the* 21*st February* 1859.

In continuation of their Circular No. 1, dated 11th February 1859, regarding the transfer of pensions from one province to another under the authority of a Divisional Commissioner, I am directed by the Sudder Board of Revenue to forward the annexed copy of a letter No. 35, dated 15th January, from the Secretary to Government of India, with the Governor General, to Secretary to Government, North Western Provinces, explanatory of the rule contained in the above Circular.

ABSTRACT.

Transfer of pensions by Commissioners.

In continuation of Circular No. 1, dated 11th February 1859, Board forward copy of a communication from Government explanatory of the rule contained in the Circular.

(COPY.)

No. 358.—*From* G. F. EDMONSTONE, *Esquire, Secretary to the Government of India, with the Governor General, to* W. MUIR, *Esquire, Secretary to Government, North Western Provinces.—Dated Allahabad, 15th January* 1859.

I HAVE the honor to acknowledge the receipt of Mr. Under-Secretary Daniell's letter, dated 8th instant, No. 3 A, and its enclosures, regarding the transfer of pensions from one province to another under the authority of a Divisional Commissioner.

2nd.—In reply I am directed to state, that the Governor General approves of the suggestions made by the Sudder Board of Revenue, North Western Provinces, to the following effect:—1st, that this authority be not extended to political pensions; 2nd, that a narrative of the origin and particulars of each pension proposed for transfer be compiled and sent to the Commissioner, whose authorization is requested, and by him to the office of payment; and 3rd, that such transfers be reported at the time to both the Accountants.

3rd.—These conditions are applicable to the transfer of pensions from Oude to the North Western Provinces and Bengal, as well as from from the Punjab to the North Western Provinces and Bengal, and *vice versa.*

CIRCULAR No. 246 OF 1859.—*From* E. C. BAYLEY, *Esquire, Officiating Secretary to Government, North Western Provinces, to* W. H. LOWE, *Esquire, Secretary to the Sudder Board of Revenue, North Western Provinces.—Dated Allahabad, the 14th March* 1859.

I AM directed by the Hon'ble the Lieutenant Governor to request, that the Board will at once take steps for the preparation and submission of such Periodical Returns, &c., for the year 1858-59, as must be furnished to this Government in order to the preparation of the General Administration Report of the North Western Provinces, which must be submitted to the Government of India by the end of July next. All your Reports should be received by the 15th of May next at latest.

CIRCULAR ORDER D. OF 1850.—*From* W. H. LOWE, *Secretary, Sudder Board of Revenue, North Western Provinces, to all Revenue Officers.—Dated Allahabad, the 1st April* 1859.

WITH reference to the accompanying copy of the orders of Government, North Western Provinces, No. 246, dated 14th instant, regarding the preparation and submission of such of the Periodical Returns as are required for the preparation of the General Administration Report of the North Western Provinces, for 1858-59, I am directed by the Sudder Board of Revenue to draw your attention to the following instructions.

2nd.—The usual tabular appendices to the Revenue Administration Reports should be commenced before hand, and filled up as far as practicable, so that entries not capable of insertion till the close of the year, may be entered as soon as possible after it.

3rd.—These tabular appendices, noted below, must be prepared in duplicate, one copy to be sent *direct to the Board's Office*, and the other to the Commissioner's. They must on no account be detained for the Review to be annexed to them. That can follow, if not ready, a day or two after. The earliest possible transmission of the tabular statements to the Board's Office is an absolutely indispensable necessity to admit of the prompt compilation of the general tabular statements for these Provinces.

4th.—The Collector's review should be as succinct as possible and confined to results in each branch of revenue administration. Such as seem to require prominent notice, must be well known before hand, and it would be judicious to prepare the draft in April, leaving actual figured results to be inserted in margin as soon as they can be ascertained.

5th.—It must be clearly understood by all, that the Board will not, as heretofore, detain their General Report, awaiting returns from any district or division. If these are not submitted, "no return" in their statement will indicate the defaulter.

6th.—The tabular statements required are:—

1.—Seasons and fall of rain, *i. e.*, a memorandum of the general character of the season, and of the out-turn of the Rubbee and Khureef harvests, with number of inches of fall, where this has been ascertained.

2.—Statements of Demands, Collections and balances of Land Revenue.

3.—Statements of Dustuks and Tulbana.

4.—Coercive measures, or cases of farm, transfer, sequestration and sales for arrears of Land Revenue.

5.—Summary suits and appeals.

6.—Proprietary mutations.

7.—Complete divisions.

8.—Lapses and resumptions of maaf tenures.

9.—Settlements made of the above.

10.—Putwaree's papers.

11.—Amount of realized Abkaree Revenue, from 1st May to 30th April. As the Abkaree Official year differs, a Financial result is all that need be stated, but the amount of Revenue should be shown under each head, Abkaree, Taree, Mooskerat, Opium sold, Casual licenses, and Confiscations. The same return must be obtained from the Abkaree Superintendent of any Military Cantonment, and forwarded with the Collector's statements.

12.—Stamps, receipts and charges.

13.—Miscellaneous Sayer.

14.—Statement of business.

15.—Memo. of Deposits at close of the year.

7th.—Commissioners of Divisions must prepare and submit their statements of summary suits appealed, and statistical precis as soon as possible after the 1st May. The former statement can be prepared at once, and the entries in columns Nos. 1 to 5 and 14 to 17 of the latter also. If there be delay in obtaining the requisite particulars for entries in columns 6 to 12, the statement should be sent with these columns left blank, the entries to be furnished when received.

8th.—All Revenue Officers will take no ice, that the order is imperative and must be carried out, and the Board will expect that all will exert themselves and exact from their subordinates, strenuous exertions towards the prompt, complete, and accurate performance of this duty.

9th.—The Land Revenue balance statements A. and B. will continue to be submitted with the requisite explanations as required by standing rules. They should reach the Board not later than July.

10th.—The similar statements for Abkaree should reach the Board's Office in January.

ABSTRACT.

Referring to Government Order No. 246, dated 14th March, Board issue instructions for the guidance of all Revenue Officers in the preparation and submission of the Periodical Returns required for the preparation of the Annual Administration Report for 1858-59.

CIRCULAR ORDER E. OF 1859.—*From* W. H. LOWE, *Secretary, Sudder Board of Revenue, North Western Provinces, to all Commissioners.—Dated Allahabad, the 9th April* 1859.

I AM directed by the Sudder Board of Revenue to transmit, for the information and guidance of the Collectors of the Districts in your Division, the annexed copy of an extract from the proceedings of the Government of India, in the Financial Department, under date the 8th March 1859, directing the registry of all letters enclosing Government Promissory Notes and Loan Acknowledgments.

ABSTRACT.

Board forward, for information and guidance of Collectors, an extract from the proceedings of the Government of India, in the Financial Department, directing the registry of all letters, enclosing Government Promissory Notes and Loan Acknowledgments.

(COPY.)

EXTRACT from the proceedings of the Government of India, in the Financial Department, under date the 8th March 1859.

No. 826.

BOMBAY CASTLE, ACCOUNTANT GENERAL'S OFFICE, LOAN BRANCH, THE 14TH FEBRUARY 1859.

MEMORANDUM.

Receipts can only be obtained from the Indian Post Offices for letters, on which a registry fee is paid. The packets containing Government Securities from the Head Loan Office in Calcutta, do not appear to be registered; but in the absence, of a permanent ordinary Clerk in the Loan Office at Bombay, who can make and testify to, a clear unmistakable entry in the Office Post Book, of the packets which are made under the eye of the chief Clerk or Assistant, and

also be spared from other duties to deliver the said packets at the Post Office; all packets containing securities, and any particular letters, which require replies, will be registered from this date. If the registry fees exceed what the office contingent allowance will bear, a bill can be submitted to Government from time to time for sanction. The Post Office receipts will be kept on a file in the tin box, in which the chief Clerk keeps papers for disposal, and as the packets or letters are acknowledged, the receipts will be taken off the file, and pasted on the letters to which they refer.

EXTRACT from a letter from the Secretary to the Government of India, in the Financial Department, to the Acting Secretary to the Government of Bombay, No. 1572, dated the 8th March 1859.

Para. 6. The Governor General in Council approves of the orders contained in the Memorandum of the Accountant General at Bombay, dated the 14th ultimo, introducing the practice of registering letters, enclosing Government Promissory Notes and Loan Acknowledgments, forwarded from his Office through the Post Office, and he has been pleased to direct, that the same practice shall be observed by all Public Officers in India, whose duty it is to forward Government Promissory Notes and Loan Acknowledgments through the Post Office.

Ordered,—that a copy of the above be forwarded to the Accountant General to the Government of India, for information and guidance.

Ordered, also,—that a copy be forwarded to the Governments of Madras, Bengal, the North Western Provinces, the Punjab and its dependencies, and the several Accountants in those Territories, for information and guidance.

No. 591 OF 1859.

FINANCIAL DEPARTMENT:

Allahabad, the 24th March 1859.

Copy of the foregoing forwarded to Secretary, Sudder Board of Revenue, N. W. Provinces, for the purpose of being circulated to the several Collectors of Districts.

CIRCULAR ORDER, No. F. OF 1859.—FROM W. H. LOWE, *Esquire, Secretary, Sudder Board of Revenue, North Western Provinces, to all Revenue Authorities.—Dated Allahabad, the 26th April* 1859.

WITH reference to the annexed correspondence* on the subject of lands appropriated for the Railway, the Sudder Board of Revenue direct attention of the Collectors of districts in which the line of Railway has been, or may hereafter be taken, to these papers, and especially to the four classes of land, A. B. C. D., required for Railway purposes.

* Secretary to Government of India, No. 852, dated 21st January 1859.
Secretray to Government of India, No. 852 B., dated 21st January 1859.
Sudder Board of Revenue, North Western Provinces, No. 517, dated 30th November 1858, therein referred to.
Assistant Secretary to Government, North Western Provinces, No. 284, dated 8th March 1859.

2nd.—It will be necessary for past appropriations to compile a pergunnah register under each class, showing the locality, the extent of land appropriated, the amount of abatement of land Revenue authorized, and the amount of compensation paid in money for loss of profits or tenures, or for houses, trees, tanks wells, &c.

3rd.—The present prescribed statements show all such items in detail either in Vernacular or English record. The aggregate only is required to be shown for each mouzah or township, under the heading of abatement of jumma or compensation in money.

4th.—The cost of extra establishments employed in effecting appropriations for Railway purposes should be charged ratably for each pergunnah, and to the extent of land appropriated under each of the prescribed classes above referred to.

5th.—The required register should be prepared in the annexed form, and forwarded to the Offices of the Commissioner and Sudder Board of Revenue, for record.

6th.—It is required to show results of past appropriations. In future the usual statements will be submitted distinctly for each class of appropriations.

ABSTRACT.

With reference to correspondence noted, the Board circulate rules regarding the compilation of a register of all appropriations of land for Railway purposes in the North Western Provinces.

CLASS *FOR RAILWAY PURPOSES.*

District.	Pergunnah.	Mouzah.	Year of appropriation.	Area of land appropriated in acres.	Abatement of Jumma authorized.	Amount of cash compensation paid.	Ratable cost of extra Establishment.	Remarks.
1.	2.	3.	4.	5.	6.	7.	8.	9.

NOTE.—In any case, if compensation has been fixed as an annual money payment from the Treasury, the amount of such annual payment in Column of Remarks.

W. H. LOWE,
Secretary.

From MAJOR R. STRACHEY, *Officiating Secretary to the Government of India, to Secretary to Government, North Western Provinces, Public Works Department, (No. 852 B.)—Dated Fort William, the 21st January* 1859.

I AM directed to forward, for information and guidance, the accompanying copy of a letter addressed to the Officiating Consulting Engineer to Government, upon the subject of land made over to Railway Companies.

2.—It will be seen that the whole of the details connected with the subject are left to the local Government, the Supreme Government having merely laid down the general principal which are to guide the proceedings of all concerned.

3.—The proposals of the Board of Revenue, submitted with your No. 1933, dated the 23rd ultimo, seem to the Hon'ble the President in Council to be unexceptionable ; and I am further only to call attention to the necessity for discriminating carefully between the several classes of land in the adjustment between the Railway Company and Government.

From MAJOR R. STRACHEY, *Officiating Secretary to the Government of India, to Officiating Consulting Engineer to Government of India, Railway Department, Public Works Department, (No. 852.)—Dated Fort William, the 21st January* 1859.

MAJOR Goodwyn's letter No. 2320, dated the 30th September last, having been laid before the Honorable the President in Council, I am directed to communicate the following observations and orders relative to the system to be followed in keeping the record of the land made over to Railway Companies, and to the terms of its occupation. The present instructions will be held to supercede all former orders that have been issued on these subjects.

2.—And first I am to observe, that the business of the Government of India, in reference to the land question, is limited to the determination of principles, and that it need not interfere in matters of detail beyond what may be necessary to see that the principles adopted are not neglected, and that all necessary information is from time to time given to the local Governments under whom the details of this branch of business are carried out.

3.—The President in Council believes that there is little that calls for correction or change in the orders that have been heretofore issued, relative to the terms on which land is provided for Railway purposes ; but for convenience and greater precision, I am now to recapitulate the main points to which attention is requisite in dealing with this subject.

4.—The land acquired for Railway purposes may be divided into four Classes, A. B. C. and D. First, Class A., land which Railway Company receives free of charge under the contract with the Government for permanent occupation. Second, Class B., land also provided free of cost, but only for temporary occupation. Third, Class, C., the land which the Railway Company has to provide at its own cost. Fourth, Class D., land which does not come into the possession of the Railway Company at all.

5.—Class A. will comprise the land required for the permanent works of the Railway, including the road, with its bridges, &c., and all stations, workshops, permanent store-houses, and the like, necessary for the line when opened. The occupation of this land by a Railway Company will be so far permanent, that it will only cease when their contract expires, and the whole lapses to Government. It is all provided free of charge.

6.—Class B. will contain land essential for the execution of the permanent works of the Railway, but not required after the completion of the line in part or in whole. It also is provided free of charge. Such is land for spoil banks, for extra excavation to make banks, for river diversion, and for the storage of Railway materials held in stock by the Railway Company, pending the construction of the line or their despatch to the works.* The occupation of this class of land will be temporary. On its restoration to the Government, the proper time for which will be settled in each case between the Railway Officers and the Consulting Engineer, it will be for the Revenue Officers to dispose of it to the best advantage in the interest of the Government.

* This last sort of land is allowed free under the Right Hon'ble the Secretary of State's letter No. 25, of 30th November 1858.

7.—Class C. will contain the land which a Railway Company has to provide at its own cost. This is the land which is required for the provision or preparation of materials; for purposes contingent on the actual execution of the works on the line, or for other miscellaneous objects which the Government recognizes as falling legitimately within the scope of the Railway Commpany's operations, though not giving the Company a claim to the provision of land free of charge. As a Railway Company is bound to pay for the construction of all works out of the capital, receiving only from Government, without charge, the land on which the works stand, the provision of all materials, and the conveniences requiste for the execution of all works are to be at the cost of the Railway Company. In this class, therefore, will fall all land for brick-making, for quarring ballast, for roads to works in progress, for houses for persons employed on the works, &c. So also land taken for hotels built in connexion with Railway stations, for houses for engine-drivers, and the like on the line when opened, and for other similar purposes, will come under Class C. It is proper to bear in mind that this land will in part be deteriorated by the use to which it is put, and in part will not be so deteriorated. Further, the occupation of some of it will be temporary, and of some of it may be permanent. In all cases, however, it will be most convenient to deal with the land, in the first instance, in the same manner. It will be taken possession of by Government, and handed over to the Railway Company for occupation at a fair rental. When the necessity for occupation ceases, the land will be given up again to Government by the Railway Company, the proper time for this being determined as under Class B. by the Railway Officers and Consulting Engineer. On its restoration to Government, the Revenue Officers will examine the condition of the land. If it has not been deteriorated, all claim against the Railway Company will then case on account of it. If it has been deteriorated, the Revenue Officers will assess the amount of the injury done, and the Railway Company will pay that sum which, like the rent, will be charged against the Railway Captital. In both cases, the Revenue Officers will then further dispose of the land in the best way possible.

8.—Class D. will contain that land which being required in consequence of the works of a Railway, still does not come into the occupation of the Railway Company; it will be provided free of charge. It will be exclusively land for roads, either new roads leading to Railway stations, or diversions, or changes of old roads, made necessary by the Railway works.

9.—It may here be observed, that in the opinion of the Government of India, inconvenience is likely to arise if Railway Companies are permitted to hold land on their own account or otherwise than is above explained. By causing them to rent from the Government all land to which they are not entitled free, in the manner above explained, simplicity in the tenure of their property will be secured, which will be a matter of importance at a future time when the Railway may be transferred to Government. The determination of the value to be paid by the Government for any land not included in Class A., which might be held by a Railway Company, would certainly be, in such an event, a great embarrassment.

10.—It is further necessary to point out that houses, trees, tanks, or other property, on land which is not provided free of charge, and for which special payment or compensation is necessary, will be paid for at once by the Railway Company. In the case of land provided free of charge, the materials, &c., derived from the "clearance" of the surface, which then will be at the expense of Government, will be disposed of by the Revenue Officers to the best advantage.

11.—All land required for a line of Railway, will be applied for in continuous portions; the plans will be drawn to a scale of 150 feet to the inch, and the measurements and areas will be recorded in accordance with the fiscal divisions of village estates or mouzahs, pergunnahs, and zillahs in a schedule, of which a form is annexed, showing in detail the several classes to which the land belongs.

12.—The several classes of land will be colored pink, yellow, purple, and green, respectively, in the plans; and the exact purpose to which each parcel of land is to be devoted, will be noticed in the schedule.

13.—Detached portions of land should be referred to some fixed point on one of the main sheets, with such distances and compass or other bearings, as will enable the land to be identified at once. A corresponding entry should also be made on the main sheet to draw attention to the detached portion.

14.—The general correctness of the plans and schedules of the Railway Engineers being attested by the Consulting Engineers to Government, the applications will be forwarded to and dealt with as may be necessary by the Revenue Authorities, under the orders of the local Government. The Revenue Officers are to be held strictly responsible for the regular adjustment by Railway Companies of all charges on account of land to be determined in the manner above explained.

15.—A complete set of land plans should be recorded in the Chief Engineer's Office of each Railway, and a copy forwarded to the Consulting Engineer to Government, by whom a duplicate will be given to the Revenue Board, which in turn will supply Collectors of districts with transcripts of parts included in their respective zillahs. When it may be found expedient, in order to expedite the making over of the land, to employ a special Land Commissioner for this duty, the Railway Engineers should supply an additional copy of the land plan for the use of the Land Commissioner.

16.—The Consulting Engineer to Government and the local Revenue Authorities will respectively be held responsible for the punctual fulfilment of the foregoing orders in their several Departments, and for the careful record of plans in their respective officers.

17.—All contemplated changes in the land in possession of a Railway Company should be promptly reported by the Railway Agent to the Consulting Engineer to Government, who will notify the same to the local Government. It will be for the latter to see that the necessary steps are taken by the Revenue Authorities for entering such changes in their records, and for carrying out all further proceedings that are requisite on such an occurrence.

18.—It will be necessary for the local Governments to see that a correct register and record of title of all Railway lands, is maintained, for the whole of such lands will one day revert to the Crown. Also that all rents or payments for clearances, &c., chargable in behalf of Government against the Railway Company, are duly realized.

19.—It is evident that up to the present time these two last named points have, to a great extent, escaped attention; the local Governments will be requested to remedy this, and to make enquiry as to what plan, if any, is now followed in these respects, and what is proposed to be done in future?

20.—The Honorable the President in Council has learned with some surprise from Major Goodwyn's report before quoted, that there is not in existence a complete record or complete collection of plans of the land, which now is or has at any time been in the occupation of the East India Railway Company. The Consulting Engineer

recommends that a systematic revision of the subject should be made under the Railway Chief Engineers, in Bengal and North Western Provinces, respectively, district by district throughout the whole extent of their charges, and that correct land plans should be made on a scale of 150 feet to the inch, in continuous sheets based on the fixed mileage marks of the Railway with proper schedules; the whole to be in every way in accordance with the standard laid down in the earlier portion of this letter.

21.—The President in Council approves of these recommendations, and directs that such plans and schedules shall be prepared as soon as possible. Copies will be forwarded by you to the local Governments, as ordered in the case of new applications when attested by the Consulting Engineer, or his Deputies, for the issue of such orders as the local Governments may consider necessary to ensure a complete record of the title, and an equitable adjustment of all claims of Government against the Railway Companies on account of rent, &c.

22.—In conclusion, I am to point out that it is very essential that there should be for each Railway one set of plans in a regular sequence to show all the land; and that the plans of each Railway Company's estate, after they have once been prepared, should constantly be corrected and always be maintained complete. If mere copies of plans of any fresh pieces of land that may be occupied are deposited for record in separate sheets, without seeing that the record is constantly maintained in a complete form, in a very few years every thing will certainly again fall into confusion.

No. 284 OF 1859.

PUBLIC WORKS DEPARTMENT.

Dated Allahabad, the 8th March 1859.

ORDER.—Ordered, that copies of the foregoing be forwarded to the Secretary, Sudder Board of Revenue, for the issue of necessary orders.

(Signed) - F. B. OUTRAM,

Asst. Secy. to Govt., N. W. P.

PLAN SHEET NO.

Railway
District.

Schedule of Land required for the use of the Railway in Mouzah———
Pergunnah———
Zillah———

No. on Plan.	Purpose for which required.	A. Coloured pink. Land for essentially permanent occupation by regular works and stations.	B. Coloured yellow. Land temporarily but specifically required for essential purposes of construction, which will cause deterioration.	C. Coloured purple. Land required for extra contract purposes, which will cause deterioration.	D. Coloured green. Land required for extra contract purposes, which will not involve deterioration.
1.	Seat of Bank from chain to chain,	108 9 4	0 0 0	0 0 0	0 0 0
2.	Spoil Bank from Balpoor cutting,	0 0 0	18 3 6	0 0 0	0 0 0
3.	For quarrying ballast,...	0 0 0	0 0 0	1 3 2	0 0 0
4.	For temporary road from ballast quarry to line of Railway, ...	0 0 0	0 0 0	0 0 0	0 3 8
	Total,... ...				

Depy. Consulting Engr. to Govt. *Chief Engineer, Railways.*

No. 517 of 1858.—*From* W. H. LOWE, *Esquire, Secretary, Sudder Board of Revenue, N. W. Provinces, to* WILLIAM MUIR, *Esquire, Secretary to Government, N. W. Provinces.—Dated Agra, the 30th November* 1858.

I AM desired by the Sudder Board of Revenue to acknowledge the receipt of your letter No. 1479, dated 18th ultimo, respecting lands appropriated for the Railway in the North Western Provinces.

2*nd.*—Enclosed is a statement, showing the extent of appropriation, amount of abatement of Government jumma, and compensation paid in cash; statements of

which have been presented, passed by the Board, and sanctioned by the Government up to this date, on account of the Railway.

* Ghazeepore. Benares. Mirzapore.

3rd.—In the districts noted in the margin,* the records having been saved, the full detail of each item relating to land, tenure, and adjustment is forthcoming.

† Allahabad. Futtehpore. Cawnpore. Etawah. Mynpoory. Agra.

4th.—In those also noted in the margin,† the record have been destroyed; and as the native survey and settlement records have also been destroyed, the original details cannot be replaced.

5th.—Where, however, adjustment has been effected, passed and sanctioned, and the land finally occupied by the Railway people, no question is likely to arise. All that seems necessary in such cases is to obtain a register of the appropriations for each mouzah or township in which the land has been taken up, with as full particulars as can be obtained from the village Putwarees, and pergunnah Officers.

6th.—Copy of the abstract statement, compiled from the Board's record, has been furnished to each of the districts last mentioned in the margin, with instructions during the present cold season, to compile a register of adjusted appropriation, with as much accuracy and despatch as possible.

7th.—The Board have desired a precis to be drawn up for each mouzah or township from which appropriation has been made, setting forth the fullest particulars attainable from tangible records, and parties on the spot: each such record, after public recital, to be attested by landholders and other respectable parties.

8th.—On this basis the proposed register will be compiled.

9th.—With regard to non-adjusted or non-reported appropriations, the several Collectors have been instructed to complete the adjustment and transmit the record, as required by standing rules, without further delay.

10th.—With regard to a perfect title to the Railway Company, the Board are of opinion that such can only be derived from the Government itself. Government has the power of appropriating land or other property for public purposes, awarding a fair compensation for the same in due form, irrespective of any defect or dispute of title. Government alone has that privilege, and should concede title to the Railway Company only for Railway uses. It appears to be sufficient, when the record is complete, to grant a title for the land and all thereupon *exceptis excipiendis* for each pergunnah of each district, with detail of area taken from each mouzah or township, to be held by the Railway Company, or Association for the time being, and in all time to come free of all demands of land Revenue, so long as the land is devoted to Railway uses, but to revert to the Government on abandonment thereof.

11th.—With regard to temporary occupation of land for Railway purposes, provided such be within the limits fixed by Act VI., 1857, Section 37, the rule would be the same.

CIRCULAR ORDER H. OF 1859.—*From* W. H. LOWE, *Esquire, Secretary, Sudder Board of Revenue, North Western Provinces, to all the Commissioners of Revenue and Customs.—Dated Allahabad, the 26th April* 1859.

I AM directed by the Sudder Board of Revenue to transmit, for the information and guidance of yourself and of the local Officers in your Division, the subjoined extract from a communication from the Foreign Department, dated 7th January 1859, No. 52, requiring controlling Officers on vacating office to record their opinion of the official character and deserts of their subordinates.

ABSTRACT.

Requiring controlling Officers on vacating office to record their opinion of the official character and deserts of their subordinates.*

EXTRACT from a letter from the Officiating Secretary to the Government of India, to the Secretary to the Board of Revenue, (No. 52.)—Dated the 7th January 1859.

Para. 9. The President in Council desires me to observe, that it is incumbent on every controlling Officer vacating his office during the year, to record a memorandum of his opinion of the official character and desertes of his subordinates, up to the period of his quitting office; and his successor in preparing the annual report should state whether, as far as he has had an opportunity of judging, he agrees with the opinion of his predecessor or not.

(COPIES.)

CIRCULAR No. 2217.—*From the Under-Secretary to the Government of India, to* E. C. BAYLEY, *Esquire, Officiating Secretary to Government, North Western Provinces, Public Works Department.—Dated Fort William, the 6th April* 1859.

WITH reference to this Office's communication to your address, No. 852 B., of the 21st January last, I am directed to forward to you the accompanying copy of a revised form of schedule for land, which may be applied for by Railway Companies.

PLAN SHEET No.
———— Railway.
———— District.

Schedule of Land required for the use of the Railway in Mouzah ———— *Pergunnah* ———— *Zillah* ————

No on Plan.	*Purpose for which required.*	Class A. *Coloured pink.* Occupation by Railway Company, permanent. Land for the regular works of the Railway. *Provided at cost of Government.* B.	C.	Ch.	Class B. *Coloured yellow.* Occupation by Railway Company, temporary. Land essential for the execution of the works, but not required after the completion of the line. *Provided at cost of Government.*			Class C. *Coloured purple.* Occupation by Railway Company, either permanent or temporary. Land for the preparation of materials, for contingencies of construction, for dwelling-houses, &c. *Provided at cost of Railway Company.*			Class D. *Coloured green.* Occupation by Government, permanent, not coming into possession of Railway Company. Land for diversions of public roads, or for roads to Railway stations. *Provided at cost of Government.*		
1.	Seat of Bank and Cess from to Spoil Bank from	108	9	4	...	...	...	...	...	...	...	...	...
2.	Balpoor cutting,	...	...	...	18	3	6	...	...	...	...	...	...
3.	For quarrying ballast, ...	...	...	..	...	...	...	1	3	2	...	...	...
4.	For temporary, road, from ballast quarry to line of Railway. ...	...	...	...	...	...	...	...	...	...	0	3	8
	Total, ...	...	...	...	...	...	...	...	...	...	...	...	...

(Sd.) A. B.
Dy. Consulting Engineer to Govt.

(Sd.) C. D.
Chief Engineer, Railway.

No. 839 OF 1859.—*Public Works Department, North Western Provinces.—Dated Allahabad, the 26th April* 1859.

Ordered,—that copies of the foregoing be forwarded to Sudder Board of Revenue of the North Western Provinces, in continuation of a docket No. 284, dated 8th March.

CIRCULAR ORDER No. O of 1859.—*From* W. H. LOWE, *Esquire, Secretary, Sudder Board of Revenue, N. W. Provinces, to the* *Dated Allahabad,—25th July* 1859.

THE Sudder Board of Revenue, with reference to the subject of their Circular Order, 6th January 1858, respecting the conduct of Maafeedars, direct the attention of all Revenue Officers in the Regulation districts, of the North Western Provinces, to the annexed extract paragraphs 5 to 11 of the Orders of Government, No. 1162, dated 7th July 1859. All proceedings in the Revenue Department in contravention of the principles laid down in these orders must be revised.

ABSTRACT.

CONDUCT OF MAAFEEDARS.

Board annex extract paragraphs 5 to 11 of Government Order No. 1162, dated 7th July, and direct the revision of all proceedings in the Revenue Department in contravention of the principles therein laid down.

EXTRACT paragraphs 5 to 11 of Government Order, dated 7th July, No. 1162 of 1859.

PARAGRAPH 5.—The statement contains 236 cases, which may be classified as follows, with reference to the orders which have been passed upon them by the Officiating Collector:—

I. Cases in which the tenure has been continued *in its integrity.*

II. Cases in which the tenure being perpetual, the continuance of a life-interest only has been permitted.

III. Cases in which the tenure whether perpetual or for life, has been *resumed* owing to the death or absence of the incumbents, or to alleged misconduct of whatever nature.

IV. Cases in which the tenure has been *confiscated* by sentence of a Special Commissioner under the Penal Acts.

6.—The first class of cases calls for no remarks. The interests of the holders are not in any way affected by the enquiry which has been instituted, and the parties in question will of course remain in possession of their lands and rights just as if no investigation had been made.

7.—In regard to the second class of cases, the Officiating Collector has obviously exceeded his authority. It is beyond the competency of the Revenue Authorities to alter the character and conditions of a rent free tenure, which has been judicially confirmed. A perpetual rent free tenure is declared by the Law to be in the nature of a heritable and a transferable property; and every such tenure now existing in these Provinces, above 10 beegahs in extent, has, it is believed, been adjudged under the Law of 1828, to be held on a rightful title. No officer acting in the Revenue Department can set aside this title, so long as heirs entitled to succeed exist, and

the orders, therefore, of the Officiating Collector of Boolundshuhur in respect of this class must be cancelled, except, perhaps, in regard to those tenures, the incumbents of which have no heirs. And even in these latter cases, the orders are premature, and should have been deferred until the demise of the incumbents, when if no heirs entitled to succeed should be forthcoming, the tenure would lapse as a matter of course.

8.—In the third class of cases also the proceedings of the Officiating Collector are for the most part open to question.

I. Mr. Currie, in the Revenue Department, could have no authority to resume a perpetual rent free tenure, owing to the misconduct or offences of the holder, whatever these might be, such a tenure, as already remarked, adjudged to be held on a valid title, is heritable and transferable property, and clould be withdrawn from the possession of the holder only by a sentence of confiscation passed on his conviction before a special Commissioner, of an offence to which the penalty of confiscation is attached by the Penal Acts. But the defect in the Collector's jurisdiction is removed by Section 18, Act IX. of 1859, in all cases in which the offence, for which that Officer resumed the perpetual rent free tenure of the offender (or to use the Law's words "attached or seized" the said tenure or property) is an offence for which upon conviction the property of the offender would be forfeited. In such cases the resumption or attachment will hold good as a sentence of confiscation, and its validity cannot be called in question, "unless the offender, within one year after the seizure of the property, shall have surrendered himself for trial, and upon trial before a competent Court shall have been, or shall be acquitted of the offence, and shall prove to the satisfaction of the Court that he did not escape, or keep out of the way for the porpose of evading justice." By way of illustration, it may be observed, that the case of Pilkhunwallee in pergunnah Secundrabad is in point. Here the whole village has been *resumed* by the Collector for participation of the holders in the plunder of Secundrabad, which is an offence involving the penalty of confiscation, or in the words of Section 18, Act IX. of 1859, the village has been seized "by an Officer of Government, as property forfeited or liable to be forfeited to Government," *for an offence for which upon conviction, the "property of the offender* would be forfeited." Another case in point is, that of Murdan Ali, of Moonda Khera, in pergunnah Khoorja, whose share in the tenure has been *resumed* for having joined the rebels and raised the green flag at Kasgunj, and there are others to be found in the statement. In all these cases, *subject always to the condition* that the offence was one," for which upon conviction the property of the offender would be forfeited;" the Collector's order of resumption, of attachment is equivalent to a sentence of confiscation, and can be called in question only, in the way in which a sentence of confiscation actually passed by a Special Commissioner can be contested. And in order to secure the forfeiture, it will only be necessary that a brief proceeding should be recorded, reciting the offence for which the tenure was resumed, and declaring the said tenure or property in accordance with Section 18, Act IX. of 1859, to have been *defacto* confiscated from the date of the order for resumption. In other cases of perpetual rent free tenures, upon which the provisions of Section 18, Act IX. of 1859, cannot be brought to bear, owing to the offence not being one, "for which the property of the offender would be forfeited," the order for resumption cannot, His Honor apprehends, be maintained.

II. Whenever life tenures may have been resumed by Mr. Currie, as Collector, "for an offence for which upon conviction the property of the offender would be forfeited," the same remarks and instructions will apply. But beyond this there is a distinction. A life tenure is not heritable or transferable property. In the great majority the incumbent is indebted to the *favor* of Government for his holding, or probably occupies on the implied understanding of leading active assistance to the

Government in any emergency. In comparatively few cases, His Honor apprehends, is there an absolute and recognized right of rent free occupancy. Such tenures, it appears to His Honor, may be considerd fairly resumable for misconduct, not amounting to "an offence for which, upon conviction, the property of the offender would be forfeited," and all such cases should be dealt with in conformity with the orders of Government No. 2144, dated 15th December last, circulated with the Board's Circular Order A., dated 9th February 1859. Cases which may thus come under report, should be submitted through the Board, who will forward them with their opinion on each for the orders of Government. But the Officiating Collector should be warned, that mere passive indifference will not be accepted as a sufficient reason for resumption. His Honor agrees with the Board, that the charge of neglect of duty has been, in many instances, pressed against the Maafeeders of Boolundshuhur "to an extreme and unjust point."

III. Under this head it is only necessary further to notice the resumptions on account of the death or absence of incumbents. Perpetual tenures, in such cases, will of course descend to the heirs (if any) who may be entitled to the succession. Life tenures of absentees will, after public proclamation, be dealt with as proposed in Clause 3, of paragraph 6 of the Board's letter under acknowledgment.

9.—The IV. Class consists of cases in which the tenure may have been *confiscated* by the award of a special Commissioner. All rent free lands so confiscated will be disposed of as recommended by the Board in their 6th paragraph, viz:—Integral villages will be assessed and farmed for short periods until final arrangements can be made; and parcels of land will be assessed and settled at once with the Malgoozars of the estate in which they are situated.

10.—The Sudder Board are requested to issue instructions for disposal of the several cases comprehended in the statement, in accordance with the principles above declared, and to deal with any similar statements that may be received from other districts in the same spirit.

11.—It will be convenient, I am to observe, that in statements comprehending numerous entries the case shall be numbered *seriatim*.

No. 2 of 1859.—CIRCULAR ORDER *by the Sudder Board of Revenue, N. W. Provinces, to all Revenue Authorities in the N. W. Provinces.—Dated Allahabad, the 3rd August* 1859.

THE Sudder Board of Revenue call the attention of the Revenue Authorities in the North Western Provinces, to the provisions of Act X., 1859, which supercede all previous enactments and Circular Orders regarding the relative rights of Malgoozars and Ryots, and the functions of the Collector in adjudicating between them.

2nd.—The following directions and Circular Orders are cancelled :—

Section II. (paragraphs 14 to 52) of the Board's printed Circular Order No. II., dated 3rd January 1840.

Directions to settlement Officers, paragraphs 129 and 130.

Directions to Collectors, Section IV., paragraphs 254 to 278, and paragraph 280.

No. 1, dated 7th January 1842.
„ 9 „ 11th August 1843.
„ 7 „ 24th June 1845.

Paragraph 3, Circular Order No. 2, dated 3rd February 1846.

No. 10, dated 30th May 1848.
„ C. „ 29th October 1850.
„ 6 „ 4th July 1851.
„ 13 „ 30th Decr. 1851.
Circular Order F., dated 20th January 1854.
„ „ II. „ 14th February 1854.
„ „ 6 „ 29th September 1854.
„ „ 14 „ 1st December 1854.
Notification „ 1st June 1855.
Paragraphs 7, 8 and 2627, No. 1, dated 4th January 1856.
Circular Order 15, dated 5th September 1856.
Government Notification 1678, dated 17th September 1856.
Circular Order, 17, dated 26th September 1856.

3rd.—The jurisdiction of the Collector's Court in question relating to the recovery of rent, and the occupancy of land, is no longer summary and partial; it has become regular and exclusive. And exclusive jurisdiction has now been extended to this Court in respect of all claims against enhancement of rent and all claims for abatement of rent.

4th.—By Sections 23 and 24 of the Act, it has been enacted that the following classes of cases shall be cognizable by the Collectors of land Revenue, and shall not be cognizable by the Civil Court except in the way of appeal :—

I. CLASS FIRST.—All suits for the delivery of Pottahs or Kubooliyets, or for the determination of the rates of rent at which such Pottahs or Kubooliyets are to be delivered.

1. Suits for Pottahs and Kubooliyets and the rates.

II. CLASS SECOND.—All suits for damages on account of the illegal exaction of rent, or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress.

2. Suits for damages.

III. CLASS THIRD.—All complaints of excessive demand of rent, and all claims to abatement of rent.

3. Suits against enhancement or for abatement of rent.

IV. CLASS FOURTH.—All suits for arrears of rent due on account of land either Khirajee or Lakhiraj, or on account of any rights of pasturage, forest-rights, fisheries or the like.

4. Suits for arrears of rent.

V. CLASS FIFTH.—All suits to eject any ryot, or cancel any lease on account of the non-payment of arrears of rent, or on account of the breach of the conditions of any contract by which a ryot may be liable to ejectment, or a lease may be liable to be cancelled.

5. Suits for ejectment or cancelment of lease.

VI. CLASS SIXTH.—All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same.

6. Suits for repossession.

VII. CLASS SEVENTH.—All suits arising out of the exercise of the power of distraint conferred on Zemindars and others by Sections 112 and 114, of the Act, or out of any Acts done under colour of the exercise of the said power.

7. Suits connected with distraint.

VIII. CLASS EIGHTH.—Suits by Zemindars and others on receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment or for papers in their possession.

8. Suits against agents for money or accounts.

5*th*.—Monthly returns will be submitted for each district to the Commissioner of the Division in the forms A. and B. attached to this Circular. A. will include all original suits filed in the Courts of Collectors or of Deputy Collectors. B. will shew all appeals brought under Section 155, before the Collector, against the decision of a Deputy Collector.

6*th*.—Quarterly returns giving an abstract of the district returns A. and B., will be submitted by Commissioners to the Sudder Board in the forms attached. A third quarterly form C. will also be submitted showing the number of appeal filed and decided in the Commissioner's Office.

7*th*.—The annual statements of Summary Suits formerly submitted with the Administration report (Appendix III, A. B. C.) will be superceded by annual forms similar to the quarterly returns now prescribed.

8*th*.—Original jurisdiction is permitted to none but Collectors and Deputy Collectors, or to Assistants invested with the powers of Deputy Collector (Section 165 of the Act.)

9*th*.—Deputy Collectors under Regulation IX., 1833, are expressly excluded from jurisdiction "if entrusted with any Police functions." Their decisions would in that case be invalid and illegal. Collectors will, therefore, be careful not to commit the trial of any cases under Act X. of 1859, to Deputy Collectors of this class, unless they have been entirely divested of Police functions.

10*th*.—Assistants to the Collector may be advantageously employed when in the interior of the district in conducting the local enquiry allowed by Section 73 of the Act in any cases where such enquiry is necessary.

11*th*.—Cases may also be referred, as at present, to Tehseeldars for local enquiry and opinion, under the same Section. The authority under which they will act is the same as that provided for Ameens employed by the Civil Courts. Under the existing Law this is contained in Sections 180 and 181 of the Act for Civil procedure No. VIII. of 1859. Those Sections are attached to this Circular.

12*th*.—By Section 105, the under-tenure on account of which an arrear of rent has been decreed may, if transferable, be brought to sale according to the rules for such sales at the time in force. The present Law is Act VIII: of 1835.

13*th*.—Where any other under-tenure of a like nature is brought to sale under Section 110, the provisions of the Civil procedure Code, paragraphs 248 *etsequitur* will be followed. If the property be a Malgoozaree share, the Law for sale will be Act I. of 1845.

14*th*.—The principles and procedure to be followed in the adjudication of these suits are so clearly laid down in the Act itself, that it remains only for the Board to press on all Officers concerned the important nature of the functions now committed to them. The classes of cases of which the exclusive original jurisdiction has been now assigned to the Collector, affect the agricultural population of the country more closely and more widely than any other. Some of them, such as claims for enhancement and abatement, will involve questions of much nicety requiring great care and judgment. Others will be connected with complicated accounts and conflicting evidence. In a very large number of suits the decision of the Collector will be final.

15*th*.—It is essential that proceedings so important and decisive should be conducted with due deliberation and a careful adherence to the forms of procedure enjoinyed in the Act.

16*th*.—Commissioners will see that the proceedings of the Lower Courts are in all respects regular, whenever cases under the Act come under review either in appeal or incidentally; and in their annual circuits this should be a point for special enquiry.

ABSTRACT.

Board call attention to Act X. of 1859, which supercedes all previous enactments and Circular Orders regarding the relative rights of Malgoozars and Ryots, and the functions of the Collector in adjudicating between them.

TO BE SUBMITTED BY COLLECTOR MONTHLY TO COMMISSIONER.

A.

STATEMENT of Suits instituted, decided and pending, under Act X. of 1859, in the district of . for the month

Name of Officers.	Class to which suits belong.	Pending at close of last month.	Instituted during month.	Decided.	Pending at close of month.	Remarks including date of oldest case under each class.
Mr.——, *Collector.*	Class I.					
	II.					
	III.					
	VIII.					
Mr.——, *Dy. Collector.*	Class II.					
	V.					
	VII.					

B.

STATEMENT of appeals to Collector under Section 155, Act X. of 1859, in the district of for the month

Number pending at close of last month.	Instituted.	Decided.	Pending at close of month.	Remarks with dates of oldest appeal.

TO BE SUBMITTED BY COMMISSIONER TO THE BOARD QUARTERLY.

A.

ABSTRACT quarterly return of Suits under Act X. of 1859, *for the quarter of*

DISTRICT	Class to which suits belong	Pending at close of last quarter.	Instituted during quarter.	Decided	Pending at close of quarter	Remarks including date of oldest case of each class and name of officer before whom pending.
Agra, ...	II.					
	III.					
	IV.					
	V.					
	VII.					
Etawah, ...	I.					
	IV.					
	V.					
	VI.					
	VIII.					

B.

QUARTERLY Abstract of appeals to Collectors under Act X. of 1859, *for the quarter of*

DISTRICT.	Pending at close of last quarter	Instituted.	Decided.	Pending at close of present quarter.	Remarks with date of oldest appeal.

C.

QUARTERLY Return of appeals preferred to Commissioner of Division under Act X. of 1859, *for the quarter of* 18

DISTRICT.	Pending at close of last quarter.	Instituted.	Decided.	Pending at close of present quarter.	Remarks with date of oldest appeal.

TO BE APPENDED TO THE CIRCULAR ORDER OF THE SUDDER BOARD OF REVENUE, N. W. P., No. 2 OF 1859.

Act X. of 1839.—(with Index.)
Act VIII. of 1859.
Extracts from the Code of Civil Procedure (Act VIII. of 1859) referred to in the Circular.—Sections 180, 181, 248 to 272.

ERRATUM.

In the Board's Circular, in the enumeration of Circular Orders cancelled by Act X. of 1859, FOR

"Notification dated 1st June 1855."
"Paragraphs 7 and 8, and 26 and 27, No. 1, dated 4th January 1856."

SUBSTITUTE.

"Circular Order No. 12, dated 1st June 1855 (published in a Notification of the same date) paragraphs 7, 8, 26 and 27.
"Circular Order No. 1, dated 4th January 1856."

RECOVERYS OF RENT (BENGAL) ACT.

Arrangement of Sections.

1. Laws repealed and modified.
2. Ryot entitled to a pottah.
3. Ryots holding land at fixed rates to receive pottahs.
4. If rent of land be not changed for 20 years.
5. Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.
6. Right of occupancy of ryot cultivating or holding land for 12 years.
7. Saving of terms of written contracts.
8. Pottahs to which ryots not having rights of occupancy are entitled.
9. Person granting pottah entitled to a counterpart engagement.

10. Exactions in excess of rent or receipt withheld.
Form of receipt.
11. Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.
Payment of rent to be enforced only under this Act.
12. Damages for extorting payment of rent by duress.
13. Enhancement of rent of ryot holding without, or after expiry, &c., of written engagement.
14. Mode of contesting enhancement of rent.
15. Dependent talookdar, &c., holding land at fixed rent without change since permanent settlement not liable to enhancement of rent.
16. Rent of a talookdar, &c., not changed for 20 years, to be *primâ facie* evidence of occupancy at that rent since permanent settlement.
17. Grounds on which ryot having right of occupancy is liable to enhanced rent.
18. When ryot may claim abatement of rent.
19. Relinquishment of land by ryot after notice given.
20. What to be deemed an arrear of rent under this Act.
21. Liability of ryot to be ejected for arrear due.
22. Liability of farmer to have his lease cancelled for arrear adjudged due.
23. Cogizance of suits under this Act.
24. Suits by Zemindars against their agents for money or accounts.
25. Ejectment of cultivators, farmers, &c.. by Zemindars.
26. Measurement of lands.
27. Registry of transfers of talooks, &c.
28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against Surburakars or Tehseeldars of estates held khas.
30. Time for commencement of suits generally.
31. Time for commencement of suits for grant of pottahs, &c.
32. Time for the commencement of suits for arrears of rent.
33. Time for the commencement of suits against agents for money, papers, or accounts.
34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom to be presented.
36. Verification of statement.
Punishment for false verification.
37. Statement of claim to be written on stamped paper.
No stamp duty to be required for filing documents, &c.
38. Documentary evidence to be produced by plaintiff.
39. If plaintiff require production of document from defendant.
40. Form of plaint in suits for arrears of rent.
41. Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land, &c.
42. Statement may be returned or allowed to be amended.
43. Issue of summons; personal attendance of defendant may be required.
44. The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents and to bring witnesses willing to attend without process.
45. Summons how to be served.
46. Endorsement by Nazir if summons has been personally served or not.
47. Execution of process in another District.
48. Cost of serving summons or warrant to be deposited in Court.
49. Warrant of arrest in what cases to be issued.
50. Procedure after arrest of defendant.

51. Procedure when defendant is brought before the Collector under warrant. Form of security-bond.
52. Procedure if warrant of arrest cannot be served upon the defendant.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on the day of trial.
55. If defendant only appear to dispute the demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission.
56. If plaintiff only appear, Collector may proceed *ex parte*.
57. If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.
58. Revival, reversal, and alteration of decrees *ex parte* or by default.
59. On appearance of parties, the parties to be examined by the Collector and may cross-examine each other.
60. Examination of parties, &c.
61. Witnesses to be examined.
62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make his decree if no further evidence is required.
64. Consequence of inability of agent to answer.
65. If necessary, Collector to record issue and to fix a day for hearing further evidence.
66. Parties shall produce their witnesses on the day of trial; or Collector, on application of either party, shall issue summons for the attendance of a witness.
67. Rules regarding attendance, examination, &c., of witnesses.
68. Consequence of parties not appearing on the day fixed for the trial of any issue.
69. Suits instituted or defended by Naibs, Gomastahs, &c.
70. Personal attendance of plaintiff or defendant not required in certain cases.
71. Employment of authorized agents or mookhtars.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local enquiry to be made.
74. Defendant may pay money into Court in satisfaction of the demand.
If plaintiff elect to proceed and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.
75. No interest on deposits.
76. If on trial of suit for delivery of pottah, parties do not agree as to the time for which the pottah is granted, Collector to fix the time.
77. If in actions for rent a third person appear as claimant, he is to be made a party to the suit.
78. Suits for ejectment or cancelment of lease.
79. Judgment how to be pronounced.
80. If person required by the decree refuse to grant pottah, Collector may do so.
81. Refusal of person to execute kubooliyet as required by the decree.
82. Mode of executing decree for ejectment or re-instatement of ryot.
Punishment for obstructing execution.
83. Mode of executing decree for cancelment of a lease, or for ejectment or reinstatement of a farmer or tenant.
84. In what case a judgment-debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. Issue of process of execution.
87. Application for execution against movable property.
88. How long warrant shall continue in force.

89. Second and successive warrants.
90. After one year execution not to issue without notice.
91. Execution not to issue against heir or representative of a deceased party without notice.
92. No process of execution to be issued three years after date of judgment.
93. Warrant against the person.
Limit of Imprisonment.
If arrest be for non-delivery of account.
94. No person to be imprisoned a second time under same judgment.
95. Diet-money to be deposited at the time of issue of warrant.
96. Payment of diet-money in advance during imprisonment.
97. Diet-money to be costs in suit.
98. List of Property to be prepared and proclamation of sale to be published, &c.
99. Custody and sale of movable property taken in execution.
100. Collector may stay sale of movable property seized if a third party claim any interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish his right, liable to pay compensation to judgment-creditor.
103. No appeal from order of Collector under the two last preceding Sections.
104. Sale not vitiated by irregularity in publishing or conducting the same.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be the lawful possessor of such under-tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim.
107. Mode of adjudicating such claims.
108. Execution of decrees given in favor of sharers in undivided estates or tenures.
109. In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's movable property, execution may be had against his immovable property.
110. Mode of executing process if immovable property be a house or other building.
If it be a saleable under-tenure.
If it be an estate or a share of an estate.
111. Consequence of objection being offered before the sale of any immovable property.
112. Produce of the land to be held hypothecated for the rent.
Arrears of rent may be recovered by distraint under the following rules.
Cultivators who have given security to be exempt from distraint.
113. No distraint in certain cases.
114. Power of distraint to be exercised by managers under the Court of Wards, &c.
115. Standing crops, and crops gathered but not stored, liable to distraint.
116. Defaulter to be served with a written demand, &c., before or at the time of distraint.
117. Distress to be proportionate to the arrear if not paid or tendered.
List of property to be distrained to be served on owner.
118. Standing crops, &c., when attached, to be reaped and stored by the cultivator, or if he neglect to do so, by the distrainer.
119. Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.
120. Persons empowered to distrain may give written authority to their servants to do so.
121. Distress to be withdrawn if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.
122. Application for sale.

123. Form of application.
Cost of notice upon defaulter to be deposited by distrainer.
124. Procedure by Civil Court Ameen, &c., on receipt of application.
125. Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.
126. Suit to contest distrainer's demand before issue of notice of sale.
127. Distress to be withdrawn on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.
128. On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.
129. Place and manner of sale of distrained property.
130. If fair price be not offered, sale may be postpond to another day, and shall be then completed at whatever price may be offered.
131. Payment of puchase money.
132. Proceeds of sale.
133. Officers holding sales prohibited from purchasing.
134. All irregularities to be reported to the Collector.
Officer not to proceed to sale, if he find that defaulter has not received due notice.
135. Recovery of expenses, if Ameen proceeds to place of sale and no sale takes place.
136. Proceedings of Civil Court Ameens, &c., subject to revision and orders of Collectors.
137. Second proclamation of sale.
138. Procedure after institution of suit to contest distrainer's demand.
139. Any person, whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer, &c.
140. Procedure if distrainer's right to distrain be disputed.
141. Persons prevented from suing in time to save their property from sale may sue for damages.
142. Also persons aggrieved by any illegal act of distrainer.
143. Unlawful distraint.
144. Time for commencing suits for damages.
145. Resistance of distraint.
146. Service of process.
147. Resistance of process.
148. Collector competent to hold a Court in any part of his jurisdiction.
149. Agents or mookhtars.
150. Powers of Deputy Collectors.
151. Collectors and Deputy Collectors to be subject to direction and control of the Commissioners and the Boards of Revenue.
No appeal from orders of Collectors and Deputy Collectors in certain cases.
152. Time for presenting appeals from orders.
153. No appeal from any decree of Collector for money below 100 Rupees, unless the decision involve some question of right to enchance rents, or some question relating to a title to land.
154. In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.
155. Appeal from decision of Deputy Collector.
156. Petition of appeal to be on stamp paper, &c.
157. Procedure in appeal.

158. Re-admission of appeal.
159. Judgment in appeal.
160. In what suits appeal to lie to Zillah Judge, and in what to Sudder Court.
161. Rules regarding presentation and hearing of appeals.
162. Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the lands is situate.
163. Except as above, Collector not to exercise jurisdiction in respect to lands situate beyond his District.
164. Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.
165. What powers to be exercised by Assistants to Collectors.
166. Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII. 1819.
167. Commencement of Act.
168. Interpretation.

ACT No. X. OF 1859.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 29th April 1859.)

An Act to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of ryots with respect to the delivery of pottahs and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:—

Laws repealed and modified.

I. The following Regulations and Acts and portions of Regulations and Acts are hereby repealed, except in so far as they repeal any other Regulation or Act, and except as to proceedings commenced before the date of this Act coming into force, namely:—

Regulation VII. 1793, (*to empower landholders to distrain and sell the personal property of ryots, &c.*)

So much of Regulation IV. 1794, (*to determine disputes regarding the grant of pottahs to ryots, &c.,*) *as is still in force.*

Regulation XXXV. 1795, (*for better enabling individuals to recover arrears of rent or revenue due to them*).

Regulation XLV. 1795, (*to empower landholders in the province of Benares to distrain, &c.*

Sections IX. and X., Regulation LI. 1795, (*respecting ryotty pottahs in the province of Benares.*)

Sections I. to XX., Regulation VII. 1799, (*to enable landholders to realize their rents with greater punctuality, &c.*)

Sections I. to XX., Regulation V. 1800, (*to enable landholders in the province of Benares to realize their rents with greater punctuality, &c.*

Regulation XXVIII., 1803, (*to empower landholders in the ceded provinces to distrain, &c.*)

Sections IX. and X., Regulation XXX., 1803, (*prescribing rules for the grant in the ceded provinces of pottahs to ryots, &c.*)

Section IV., Regulation II., 1805, (*to provide a limitation of time for certain suits, &c.*)

Section XIX., Regulation VIII., 1805, (*for extending certain Regulations to the ceded and conquered provinces, &c.*)

Sections V. to XXIII., Regulation V., 1812, (*for amending some of the rules at present in force for the Collection of the land revenue.*

Sections XV, and XVI., Regulation XIX., 1817, (*for amending certain Regulations in force relative to process for recovery of rent, &c.*)

Section XXVII., Regulation XX., 1817, (*relating to resistance to distraint for arrears of rent, &c.*)

Sections XVIII. and XIX., Regulation VIII., 1819, (*relating to putnee talooks and the system established for the collection of rents generally, &c.*)

Section IV., Regulation II., 1821, (*relating to the duties of city and Zillah judges &c.*)

Section XXII., and so much of Section XX, and the following Sections of Regulation VII., 1822, (*relating to the settlement of the land revenue in the ceded provinces and Cuttack, &c.*) as apply to suits for rent, to complaints of excessive demand or undue exaction of rent or of the non-delivery of pottahs or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land.

Regulation XIV., 1824, (*for modifying the rules in force for referring to the Collector's summary suits in cases of arrears or exaction of rent.*)

Regulation VIII., 1831, (*for amending the existing provisions relative to the trial of summary suits and claims for arrears or exactions of rent.*)

Act I., of 1839, (*relating to the appointment of persons to sell property distrained for the recovery of arrears of rent.*)

Act X., of 1846, (*for regulating the proceedings in certain cases of distraint for arrears of rent*)—and

Act VIII., of 1848, (*to modify the provisions of Sections* IX., X., XI., *and* XIII. *of Regulation* V., 1812, *of the Bengal Code.*)

Sections XIV., and XV. Regulation IX, 1833, (*for the more speedy decision of certain suits, and for enforcing the production of village accounts, &c.*) so far as the same are applicable to the Territories under the Government of the Lieutenant Governor of Bengal, are also repealed.

Such parts of Regulation VIII., 1793, (*prescribing rules for the decennial settlement of the public revenue in Bengal, Behar, and Orissa, &c.*) and Regulation XXX., 1803, as relate to the adjudication of penalties for the refusal of pottahs and receipts for rent, and for the exaction of any sums as abwab or in excess of the amount specified in any engagements for the payment of rent, and such parts of Section XXVI., Act I., of 1845 (*to amend Act No.* XII., *of* 1841, *entitled "an Act for amending the Bengal Code in regard to sales of land for arrears of revenue"*), as relate to the enhancement of rents and the ejectment of tenants by the purchaser of an estate sold for arrears of Government revenue, are declared subject to the following modifications.

Ryot entitled to a pottah.

II. Every ryot is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars:—

The quantity of land; and where fields have been numbered in a Government survey, the number of each field.

The amount of annual rent.

The instalments in which the same is to be paid.

And any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered, and the time and manner of delivery.

III. Ryots who, in the provinces of Bengal, Behar, Orissa, and Benares, hold lands at fixed rates of rent, which have not been changed from the time of the permanent settlement, are entitled to receive pottahs at those rates.

Ryots holding land at fixed rates to receive pottahs.

IV. Whenever, in any suits under this Act, it shall be proved that the rent at which land is held by a ryot in the said provinces has not been changed for a period of 20 years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

If rent of land be not changed for 20 years.

V. Ryots having rights of occupancy, but not holding at fixed rates as described in the two preceding Sections, are entitled to pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.

VI. Every ryot, who has cultivated or held land for a period of 12 years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on of the same; but this rule does not not apply to khomar, neejjote, or seer land belonging to the proprietor of the estate or tenure, and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sublet for a term or year by year by a ryot having a right of occupancy. The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this Section.

Right of occupancy of ryot cultivating or holding land for 12 years.

VII. Nothing contained in the last preceding Section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot when it contains any express stipulation contrary thereto.

Saving of terms of written contracts.

VIII. Ryots not having rights of occupancy are entitled to pottahs only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Pottahs to which ryots not having rights of occupancy are entitled.

IX. Every person who grants a pottah is entiled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

Person granting pottah entitled to a counterpart engagement.

X. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provisions of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to

Exactions in excess of rent or receipt withheld.

recover from the person receiving such rent, damages not exceeding double the amount so exacted or paid. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of receipt.

Form of receipt.

XI. The power heretofore vested in zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.

Payment of rent to be enforced only under this Act.

XII. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Damages for extorting payment of rent by duress.

XIII. No under tenant or ryot, who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate; and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or ryot, in or before the month of Cheit, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collector on the application (which may be on plain paper) of the person to whom the rent is payable, and shall, if practicable, be served personally on the under tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affixed at his usual place of residence, or if he have no such place of residence in the District in which the land is situate, the mode of service of such notice shall be by affixing it at the Mal cutcherry of such land or other conspicuous place thereon, or at the village Chowree or Chowpal, or at some other conspicuous place in the village in which the land is situate.

Enhancement of rent of ryot holding without, or after expiry, &c., of written engagement.

XIV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Mode of contesting enhancement of rent.

XV. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who in the Provinces of Bengal, Behar, Orissa, and Benares, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, any thing in Section LI., Regulation VIII., 1793, or in any other law, to the contrary notwithstanding.

Dependent talookdar, &c. holding land at fixed rent without change since permanent settlement not liable to enhancement of rent.

XVI. Whenever, in any suit under this Act, it shall be proved that the rent at which a talook or other tenure is held in the said Provinces, has not been changed for a period of 20 years before the commencement of the suit, it shall be presumed that such talook or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Rent of talookdar, &c. not changed for 20 years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.

XVII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely :—

Groun ds on which ryot having right of occupancy is liable to enhanced rent.

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent.

That the rate paid by him is below that prevailing in adjacent places.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the value of the land, &c. has increased independently of the ryot.

That the quantity of land held by the royt has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

That the quantity of land held by the ryot is greater than he has paid rent for.

XVIII. Every ryot having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been dismished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

When royt may claim abatement of rent.

XIX. Any ryot, who desires to relinquish the land held or cultivated by him shall be at liberty to do so, provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorized agent in or before the month of Cheit of the year preceding that in which the relinquishment is to have effect. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land. If the person entitled to the rent of the land or his agent refuse to receive any such notice, and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in Section XIII.

Relinquishment of land by ryot after notice given.

XX. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable, according to established usage, shall be held to be in arrear of rent under this Act, and unless otherwise provided by written agreement, shall be liable to interest at 12 per centum per annum.

What to be deemed an arrear of rent under this Act.

Liability of ryot to be ejected for arrear due.

XXI. When an arrear of rent remains due from any ryot at the end of the Bengal year, or at the end of the month of Jeth of the Fuslee or Willayutee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due. Provided that no ryot, having a right of occupancy or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

Liability of farmer to have his lease cancelled for arrear adjudged due.

XXII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected. Provided that no such lease shall be cancelled, nor the lease-holder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

Cognizance of suits under this Act.

XXIII. 1.—All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered;

2.—All suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

3.—All complaints of excessive demand of rent, and all claims to abatement of rent;

4.—All suits for arrears of rent due on account of land either kherajee or lakheraj, or on account of any rights of pasturage, forest rights, fisheries, or the like;

5.—All suits to eject any ryot, or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment, or a lease may be liable to be cancelled;

6.—All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same;

7.—All suits arising out of the exercise of the power of distraint conferred on zemindars and others by Sections CXII. and CIV. of this Act, or out of any acts done under color of the exercise of the said power as hereinafter particularly provided;

Shall be cognizable by the Collectors of land revenue, and shall be instituted and tried under the provisions of this Act, and except in the way of appeal as provided in this Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner.

Suits by Zemindars against their agents for money or accounts.

XXIV. Suits by zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Ejectment of cultivators, farmer, &c., by Zemindars.

XXV. If any zemindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or

tenancy or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act. Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated ticca zur-i-peshgee or the like, in which an advance has been made by the lease-holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the Civil Court.

Proviso.

XXVI. When rent is payable by an under-tenant or ryot at a certain rate or rates according to the quantity of land held or cultivated by him, or when any written engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or ryot has expired or become cancelled by the sale for arrears of revenue or rent of the estate or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or ryot, and every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands. If any person intending to measure any land which he has a right to measure, is opposed in making such measurement by the occupant of the land, or if any under-tenant or ryot having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order, either allowing or disallowing the measurement, and if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot after the issue of an order enjoining his attendance neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

Measurement of lands.

XXVII. All dependent talookdars and other persons possessing a permanent transferable interest in land intermediate between the zemindar and the cultivator, are required to register in the Sherishteh of the zemindar or superior tenant to whom the rents of their talooks or tenures are payable; all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions. If any zemindar or superior tenant refuse to admit to registry, or otherwise give effect to any such transfer or succession, the transferree or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass no order enjoining the Zemindar or superior tenant to admit to registry, and otherwise give effect to such transfer or succession. Provided that no Zemindar or superior tenant shall be required to admit to registry, or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding, without the consent in writing of the Zemindar or superior tenant.

Registry of transfers of talooks, &c.

Proviso.

XXVIII. So much of Section X., Regulation XIX., 1793; Section X., Regulation XLI., 1795 Section; VI., Regulation XXXI., 1803; Section XXI. Regulation VIII., 1805, and Section XXIV., Regulation XII., 1805, as authorizes and requires proprietors and farmers of estates, and dependent talooks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said Sections, of their own authority, to collect the rents of such land, and to dispossess the grantees of the proprietary right in the land, and to re-annex it to the estate or talook in which it may be situate, is repealed; and any proprietor or farmer who may desire to assess any such land, or to dispossess any such grantee, shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act. Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land, or dispossess the grantee, or of same person claiming under him, first accrued. If such period has already elapsed, or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

Application to dispossess grantees of land exempt from revenue.

XXIX. All suits which under the provisions of this Act may be brought by or against zemindars or other persons in the receipt of the rent of land, may be brought by or against Surburakars or Tuhseeldars of estates held under khas management, whether such estates are the property of Government, or of individuals. If the Collector or the Surburakar or Tuhseeldar of any such estate in the Provinces of Bengal, Behar, and Orissa, proceed against any defaulting ryot or under-tenant of such estate under the powers vested in him by Section XXV., Regulation VII., 1799, and not according to the provisions of this Act, such ryot or under-tenant may contest the demand on account of which he is so proceeded against by suit in the Civil Court.

Suits by or against Surburakars or Tuhseeldars of estates held khas.

XXX. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

Time for commencement of suits generally.

XXXI. Suits for the delivery of pottahs or kubooliyets and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

Time for commencement of suits for grant of pottahs, &c.

XXXII. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fuslee or Willayuttee year in which the arrear claimed shall have become due. For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, of such rent having been enhanced after issue of notice under Section XIII., and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year, or of the month of Jeth of the Fuslee or Willayuttee year, on account of which such enhanced rent is claimed.

Time for the commencement of the suits for arrears of rent.

Proviso.

XXXIII. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent, or in the case of claims now existing within one year after the passing of

Time for the commencement of suits against agents for money, papers, or accounts.

this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. Provided that, if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Proviso.

XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim which shall contain the name, description, and place of abode of the plaintiff; the name, description and place of abode of the defendant, so far as they can be ascertained; the substance of the claim, and the date of the cause of action.

Mode of instituting suits. Form of plaint or statement of claim.

XXXV. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Statement by whom to be presented.

XXXVI. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:

Verification of statement.

I, A. B, do declare that the above statement is true to the best of my knowledge and belief.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for false verification.

XXXVII. In suits for the recovery of arrears of rent or of money in the hands of an agent, the statement of claim shall be written on paper bearing a stamp of one-fourth the value prescribed for suits instituted in the Civil Court. In all other suits the statement shall be written on paper bearinga stamp of the value of eight annas.

Statement of claim to be written on stamped paper.

No stamp shall be required in respect of the production or filing of any document, or the summoning of any witness, or of any application for the execution of any order or judgment passed in a suit under this Act.

No stamp duty to be required for filing documents, &c.

XXXVIII. If the plaintiff rely in support of his claim or any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by plaintiff.

XXXIX. If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Collector a description of the document in order that the defendant may be required to produce the same.

If plaintiff require production of document from defendant.

XL. If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate, and of the Pergunnah or other local division in which the land is situate; and if the arrear is alleged to be due from any ryot, the quantity of land, and where fields have been numbered in a Government Survey, the number of each field, the yearly rent of the land, the amount (if any)

Form of plaint in suits for arrears of rent.

received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land, &c.

XLI. If the suit be for the ejectment of a ryot, farmer, or tenant from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement shall describe (as circumstances may require) the extent, situation, and designation of the same ; and if necessary for the identification of the land, shall set forth the boundaries of such land.

Statement may be returned or allowed to be amended.

XLII. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statment to the plaintiff, or at his discretion allow it to be amended.

Issue of summons ; personal attendance of defendant may be required.

XLIII. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter especially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.

XLIV. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intent to rely in support of his defence. It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process ; and shall be in the form (A) contained in the Schedule to this Act, or to the like effect.

Summons how to be served.

XLV. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable ; or if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

Endorsement by Nazir if summons has been personally served or not.

XLVI. If the summons be served personally, the Nazir shall endorse on the summons the fact of such service. If personal service b enot effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Execution of process in another District.

XLVII. If the usual place of abode of the defendant be in another District, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such District, who shall issue the summons and return the same, after service, with the prescribed endorsement, to the Officer by whom it was transmitted to him.

Cost of serving summons or warrant to be deposited in Court.

XLVIII. The amount of the cost of serving the summons, or if a warrant be issued as provided in the next succeeding Section, of serving the warrant, shall in all cases be deposited in Court upon the same day, or the day next following that on which the plaint or statement of claim is presented to the Collector.

If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in Section CXLVI.), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases to be issued.

XLIX. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. When such application is presented, the Collector shall examine the plaintiff or his agent, on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded; and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant. The Collector shall fix a reasonable time for the return of the warrant which shall be in the form (B) contained in the Schedule to this Act or the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence. But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependant talook or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

L. If a defendant be arrested under the warrant of arrest, he shall be brought, with all convenient speed, before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice.

Procedure when defendant is brought before the Collector under warrant.

LI. When a defendant is brought before the Collecter under warrant, the Collector shall, with all convenient speed, proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the Civil jail to be there detained until he shall furnish such security or deposit such sum as the Collectoor shall order. The security-bond shall be in the form (D) contained in the Schedule to this Act, or to the like effect.

Form of security-bond.

Procedure if warrant of arrest cannot be served upon the defendant.

LII. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own Office, and at the residence of the defendant, fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice, at the residence of the defendant. If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding Section.

LIII. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred Rupees as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Compensation for arrest applied for without reasonable cause.

LIV. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit unless precluded by the rule for the limitation of actions.

Consequence of neither party appearing on the day of trial.

LV. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If defendant only appear to dispute the demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon on such admission.

Proviso.

LVI. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex-parte* against the defendant.

If plaintiff only appear, Collector may proceed *ex-parte*.

LVII. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding Section, the Collector, may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.

LVIII. No appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all such cases if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shall show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs, or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

Revival, reversal, and alteration of decrees *ex-parte* or by default.

LIX. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party

On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.

or his agent may cross-examine the other. If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally. At the time of examination the defendant, if he think fit, may file a written statement of his defence.

Examination of parties, &c.

LX. The examination of the parties or their agents, or such other persons as aforesaid, shall be upon oath or affirmation, or otherwise according to the law for the time being in force relative to the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Collector, and filed with the record.

Witnesses to be examined.

LXI. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Documentary evidence to be produced by defendant.

LXII. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination, Collector may make his decree if no further evidence is required.

LXIII. If after the examination required by Section LIX., and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

Consequence of inability of agent to answer.

LXIV. If on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion, that the party whom he represents ought to answer, and is likely to be able to answer, if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid, shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default, or make such other order as he may deem proper in the circumstances of the case.

If necessary, Collector to record issue, and to fix a day for hearing further evidence.

LXV. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties shall produce their witnesses on the day of trial; or Collector on application of either party, shall issue summons for the attendence of a witness.

LXVI. The parties shall bring forward their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

LXVII. The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Rules regarding attendance, examination, &c., of witnesses.

LXVIII. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the condition provided in Section LIV. If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Consequence of parties not appearing on the day fixed for the trial of any issue.

LXIX. When suits under this Act are instituted or defended by Naibs, Gomastahs, or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed; all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such Naibs, Gomastahs, or other persons; and anything which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid. Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same have been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Suits instituted or defended by Naibs, Gomastahs, &c.

LXX. A plaintiff or defendant shall not be required to attend in person, if of the female sex and of a rank of class, which according to the custom and manners of the country would render it improper for her to appear in public.

Personal attendance of plaintiff or defendant not required in certain cases.

LXXI. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; and no fee for any agent shall be charged as part of the costs of suit in any case under this Act.

Employment of authorized agents or mookhtars.

LXXII. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of suits, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may grant time or adjourn hearing.

LXXIII. The Collector may at any stage of a case cause a local enquiry and report respecting the matter in dispute to be made by any Officer subordinate to him, or by any other Officer of Government with the consent of the authority to whom such Officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. The provisions of the law for the time being in force relative to local enquiries by Ameens or Commissioners under orders of the Civil Courts, shall apply to any local enquiry made by any Officer under this Section, and, so

Collector may cause local enquiry to be made.

far as they are applicable, to enquiries made by the Collector in person. In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Defendant may pay money into Court in satisfaction of the demand.

LXXIV. The defendant in any action under this Act may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff. If the defendant deposit less than the sum claimed, and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

If plaintiff elect to proceed and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.

No interest on deposits.

LXXV. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

If on trial of suit for delivery of pottah, parties do not agree as to the time for which the pottah is granted, Collector to fix the time.

LXXVI. If on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy, the parties do not agree as to term for which the pottah is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper. Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government.

Proviso.

Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of continuance of such interest. For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

If in actions for rent a third person appear as claimant, he is to be made a party to the suit.

LXXVII. When in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person, on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit; such third person shall be made a party to the suit, and the question of the actualy receipt and the enjoyment of rent by such third person shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decisions of Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Proviso.

Suits for ejectment or cancelment of lease.

LXXVIII. Any person desiring to eject a ryot, or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit

for such ejectment or cancelment. In all cases of suits for the ejectment of a ryot or the ecancelment of a lease, the decree shall specify the amount of the arrear, and if such amount, together with interest and costs of suit, be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Judgment how to be pronounced.

LXXIX. The Collector shall pronounce judgment in open Court. The judgment shall be written in the Vernacular language of the Collector, and shall contain the reasons for the same, and shall be dated and signed by the Cellector at the time when it is pronounced.

If person required by the decree refuse to grant pottah Collector may do so.

LXXX. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuse or delay to grant the same, the Collector may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person afore-aid.

Refusal of person to execute kubooliyet as required by the decree.

LXXXI. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kubooliyet executed by the said person.

Mode of executing decree for ejectment or re-instatement of ryot.

LXXXII. If the decree be for the ejectment of any ryot from land occupied by him, or for the re-instatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Punishment for obstructing execution.

Mode of executing decree for cancelment of a lease or for ejectment or re-instatement of a farmer or tenant.

LXXXIII. If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator) or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

In what case a judgment-debtor may be detained or imprisoned without issue of process of execution.

LXXXIV. If the decree be for arrears of rent or for money, papers, or accounts, and the defendant had been committed to jail or appear pursuant to the conditions of any security-bond given under Section LI., the Collector may order that he be detained in or committed to the Civil Jail, unless he immediately pay into Court the amount of the decree, with costs, or otherwise comply with the terms of the decree.

Liability of surety on failure to deliver judgment-debtor into custody.

LXXXV. If the judgment-debtor has given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody, when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the

amount due by the debtor had been passed against the surety. If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced, and the surety shall fail to deliver him into custody, when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Issue of process of execution.

LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property. Process of execution against the person or moveable property of a debtor shall be in the form (E.) or (F.) contained in the Schedule to this Act, or to the like effect.

Application for execution against moveable property.

LXXXVII. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs. In either case the property to be seized shall be pointed out to the Officer entrusted with the execution of the process by the creditor or his agent.

How long warrant shall continue in force.

LXXXVIII. Every warrant of execution shall bear date on the day on which it is signed by the Collector, and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

LXXXIX. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor after the expiration of the period fixed for the continuance force of a previous warrant.

After one year execution not to issue without notice.

LC. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for; if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

Execution not to issue against heir or representative of a deceased party without notice.

XCI. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

No process of execution to be issued three years after date of judgment.

XCII. No process of execution of any description whatsoever shall be issued on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred Rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Warrant against the person.

XCIII. If a warrant issue for taking in execution the body of any person, the Officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector. If such person shall not then deposit in Court the full amount specified in the warrant, or make such arrangement for the payment fo the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector, that he has no present means of paying the debt, the Collector shall send him

to the Civil jail there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree. Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundered Rupees, or two years in any other case. If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or account shall not be delivered by him when he is brought before the Collector, such person may be Committed to the Civil Jail there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

Limit of imprisonment.

If arrest be for non-delivery of accounts.

XCIV. Any person once discharged from jail shall not be imprisoned a second time under the same judgment. If the amount due under the decree do not exceed one hundred Rupees, the Collector may declare such discharged person absolved from further liability under that decree. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

No person to be imprisoned a second time under same judgment.

XCV. Any person applying for a warrant of arrest under Section XLIX. or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Diet-money to be deposited at the time of issue of warrant.

XCVI. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Payment of diet-money in advance during imprisonment.

XCVII. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent, shall be returned to the person who deposited the same.

Diet-money to be costs in suit.

XCVIII. In executing a writ of execution against the movable property of a debtor liable under this Act, the Officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held together with a copy of the said list at the intended place of sale, and at the residence of the debtor. A copy of the said proclamation and list shall be transmitted to the Collector, and shall be affixed in his Office.

List of property to be prepared, and proclamation of sale to be published, &c.

XCIX. No sale of any movable property taken in execution shall be made until after the end of ten days next following the dayon which such property may have been so taken. Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the Officer executing the writ. The provisions of Sections CXXIX. to CXXXIII. so far as the same are applicable, shall be applied to sales under this Section.

Custody and sale of movable property taken in execution.

C. If before the day fixed for the sale a third party appear before the Collector and claim a right or interest in any of the movable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing, may stay the sale of such property.

Collector may stay sale of movable property seized if a third party claim any interest therein.

CI. The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit. In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Collector to adjudicate such claims.

CII. If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

Claimant failing to establish his right liable to pay compensation to judgment-creditor.

CIII. No appeal shall lie from any order passed by the Collector under the two last preceding Sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

No appeal from order of Collector under the two last preceding Sections.

Proviso.

CIV. No irregularity in publishing or conducting a sale of movable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court; provided such action be brought within one year from the date of sale.

Sale not vitiated by irregularity in publishing or conducting the same.

Proviso.

CV. If the decree be for an arrear of rent due in respect of an under-tenure which by the title-deeds or the custom of the country is transferable by sale, the judgment creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received when a warrant of execution has been previously issued against the person or movable property of the judgment-debtor, so long as such warrant remains in force. If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, movable or immovable, belonging to the debtor, and any such immovable property may be brought to sale in the manner provided in Section CX. of this Act.

Sale of transferable tenures in execution of decrees for arrears of rent.

CVI. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector, and allege that such third party and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the

If third party claim to be the lawful possessor of such under-tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim.

time when such decree was obtained, the Collector shall examine such party in the manner provided in Section C. for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim.

Proviso.

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the Sherishteh of the Zemindar or superior tenant shall be recognized, unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Mode of adjudicating such claims.

CVII. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favor of sharers in undivided estates or tenures

CVIII. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure for money due to him on account of his share, of the rent of an under-tenure situate in such undivided estate or talook or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any movable property which the judgment debtor may possess within the District in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section CV., may be brought to sale in execution of the decree in the same manner as any other immovable property may be sold in execution of a decree for money under the provisions of the two next following Sections.

In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's movable property, execution may be had against his immovable property.

CIX. In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or movable property of the debtor within the District in which the suit was instituted, the judgment creditor may apply for execution against any immovable property belonging to such debtor.

Mode of executing process if immovable property be a house or other building

CX. If the immovable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of movable property, and the provisions of Sections XCVIII. and XCIX. shall be applicable to the execution of such process. If the property be a saleable under tenure, it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures, for demands other than those of arrears of rent due in respect thereof. If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

If it be a saleable under-tenure.

If it be an estate or a share of an estate.

Consequence of objection being offered before the sale of any immovable property.

CXI. If before the day fixed for the sale of any immovable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a

decree against him, the Collector shall examine the party making the objection in the manner prescribed in Section C. for the examination of third parties, and if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in Section CVII.

Produce of the land to be held hypothecated for the rent.

CXII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent as defined in Section XX. of this Act, is due from any cultivator of land, the Zemindar, lakherajdar, farmer, dependent talookdar, under-farmer, or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules. Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to distraint. Provided also that no sharer in a joint estate, dependent talook, or other tenure in which a division of lands has not been made amongst the sharers, shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, talook, or tenure, on behalf of all the sharers in the same. Provided further that, in Putteedaree estates situated in districts under the Government of the Lieutenant-Governor of the North-Western Provinces, distraint shall be made only through a lumberdar.

Arrears of rent may be recovered by distraint under the following rules.

Cultivators who have given security to be exempt from distraint.

Proviso.

Proviso.

No distraint in certain cases.

CXIII. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint to be exercised by managers under the Court of wards, &c.

CXIV. The power of distraint vested by Section CXII. in Zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, Surburakars, and Tehseeldars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the Naibs, Gomashtahs, and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power of attorney in that behalf. Provided that, if any illegal act is committed by any such Naib, Gomashtah, or other agent under color of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Proviso.

Standing crops and crops gathered, but not stored, liable to distraint.

CXV. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a home-stead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

CXVI. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Defaulter to be served with a written demand, &c., before or at the time of distraint.

CXVII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress, and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence.

Distress to be proportionate to the arrear if not paid or tendered.

List of property to be distrained, to be served on owner.

CXVIII. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when crops or products or any part of the same would be fit for cutting or gathering.

Standing crops, &c. when nattached, to be reaped and stored by the cultivator, or if he neglect to do so, by the distrainer.

CXIX. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public Officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an Officer to support the distrainer in making the distraint.

Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.

CXX. When any person, empowered to distrain property under Section CXII. or Section CXIV., shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Persons empowered to distrain may give written authority to their servants to do so.

CXXI. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Distress to be withdrawn if defaulter tender payment of arrear and expenses of attachment prior to day of sale

CXXII. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from time of making the distress, the distrainer shall apply for sale of the same to the Civil Court Ameen, or other Officer authorized to sell property in satisfaction of decrees of the

Application for sale.

Civil Court within the circle in which the distrained property is situate, or to such other public Officer as the local Government shall appoint for the purpose.

CXXIII. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and the date of the distress, and the place in which the distrained property is deposited. Together with the application, the distrainer shall deliver to the Civil Court Ameen or other Officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Form of application.

Cost of notice upon defaulter to be deposited by distrainer.

CXXIV. Immediately on receipt of the application the Civil Court Ameen or other Officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the Schedule to this Act; or to the like effect) on the person whose property has been distrained requiring him either to pay the amount demanded or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice. He shall at the same time send to the Collector for the purpose of being put up in his Office, and if in the North Western Provinces, in the cutcherry of the Tuhseeldar, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Procedure by Civil Court Ameen, &c, or receipt of application.

CXXV. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court Ameen or other Officer, or if so requested, shall deliver to the owner of the distrained property a certificate of the institution of such suit; and on such certificate being received by or presented to the Ameen or other Officer, he shall suspend proceedings in regard to the sale of the distrained property.

Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.

CXXVI. A person whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale. When such suit is instituted, the Collector shall proceed in the manner prescribed in last preceding Section. If thereafter application for the sale of the property is made to the Civil Court Ameen or other Officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

Suit to contest distrainer's demand before issue of notice of sale.

CXXVII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with security, binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same; and upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector, property shall be released from distraint.

Distress to be withdrawn on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.

CXXVIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court Ameen or other Officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.

CXXIX. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazar, haut, or other place of public resort, if the Civil Court Ameen or other Officer should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots as the Officer holding the sale may think advisable; and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

Place and manner of sale of distrained property.

CXXX. If on the property being put up for sale a fair price in the estimation of the Officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market day if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed whatever price may be offered for the property.

If fair price be not offered, sale may be postponed to another day, and shall be then completed at whatever price may be offered.

CXXXI. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the Officer holding the sale shall think necessary; and in default of such payment the property, shall be put up again and sold. When the purchase money has been paid in full, the Officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Payment of purchase money.

CXXXII. From the proceeds of the sale of distrained property the Officer holding the sale shall make a deduction at the rate of one anna in the Rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section CXXIV. to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made with interest thereon up to the day of sale, and if there be any overplus it shall be delivered to the person whose property shall have been sold.

Proceeds of sale.

CXXXIII. Officers holding sales of property under this Act, and all persons employed by or subordinate to such Officers, are prohibited from purchasing either directly or indirectly any property sold by such Officers.

Officers holding sales prohibited from purchasing.

CXXXIV. Civil Court Ameens and other Officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under color of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court Ameen or other Officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under Section CXXIV. or pass such other order as he may think proper.

All irregularities to be reported to the Collector.

Officer not to proceed to sale, if he find that defaulter has not received due notice.

CXXXV. When a Civil Court Ameen or other Officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding Section, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court Ameen or other Officer, the charge of one anna in the Rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary. In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector. Provided always that in no case shall a larger amount than ten Rupees be recoverable under this Section.

Recovery of expenses if Ameen proceeds to place of sale and no sale takes place.

CXXXVI. All proceedings under this Act of the Civil Court Ameens and other Officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court Ameens and other Officers as may be thought necessary.

Proceedings of Civil Court Ameens, &c., subject to revision and orders of Collectors.

CXXXVII. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court Ameen or other Officer authorizing the sale of the property, and on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court Ameen or other Officer, such Ameen or Officer shall publish a second proclamation in the manner prescribed in Section CXXIV., fixing another day for the sale of the distrained property, which shall not be less than five or more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Second proclamation of sale.

CXXXVIII. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act. If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favour of the distrainer, and amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been withdrawn, and if any balance remain due after such sale by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security by execution of the decree against the person and property of the defaulter and of his surety. If on the other hand the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained propery, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require.

Procedure after institution of suit to contest distrainer's demand.

CXXXIX. If any person shall claim as his own property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute suit against the distrainer, and such other person to try the right to the property, in the same manner, and under the same conditions as to the time of instituting the suit, and to the consequent postponement of sale, as a person whose property has been distrained

Any person, whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer, &c.

for an arrearof rent alleged to be due from him may institute a suit to contest the demand When any such suit is instituted, the property may be released upon security being given for the value of the same. If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer. If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require.

Proviso.

Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

CXL. If, in any case in which property has been distrained for an arrear of rent, and suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Procedure if distrainer's right to distrain be disputed.

CXLI. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due are alleged to be due from some other person, is prevented by any sufficient cause for bringing suit to contest the demand or to try the right to the property as the case may be, within the period allowed by Sections CXXIV. and CXXXIX., and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Persons prevented from suing in time to save their property from sale, may sue for damages.

CXLII. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Also persons aggrieved by any illegal act of distrainer.

CXLIII. If any person not empowered to distrain property under Sections CXII. and CXIV. of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under color of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale. The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit.

Unlawful distraint.

CXLIV. Provided always that any suit which may be instituted under any of the last three Sections shall be commenced within three months from the date of the occurrence of the cause of action.

Time for commencing suits for damages.

CXLV. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the Civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred Rupees, or in default of payment thereof to imprisonment for a period not exceeding two months.

Resistance of distraint.

CXLVI. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the Nazir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued. The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued. Provided that if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Service of process.

CXLVII. Any resistance or opposition to the lawful process of Collector under the Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of Civil Justice. When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and if after due service of the summons he fail to attend, may issue a warrant for his apprehension. Orders passed by Collectors under this Section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of Section CLI.

Resistance of process.

CXLVIII. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his District or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

Collector competent to hold a Court in any part of his jurisdiction.

Proviso.

CXLIX. Any person may practice as an agent or mookhtar in a Court held by a Collector under this Act without any formal license from the Collector. But it shall be competent to the Collector to prohibit any person, who has been convicted by a competent Court of a criminal offence, or who has been found guilty of fraudulent or dishonest conduct in the discharge of his duty as agent or mookhtar, to practise as an agent or mookhtar in his Court. When any agent or mookhtar is charged by the Collector or any other person with fraudulent or dishonest conduct in the discharge of his duty, the Collector shall proceed in the manner prescribed in Section IV., Act XVIII., of 1852, or any other law for the time being in force for the trial of charges against pleaders.

Agents or mookhtars.

Powers of Deputy Collectors.

CL. All the powers vested in the Collector by the preceding Sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference, by any Deputy Collector placed in charge of any Sub-division of a district; and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction.

Collectors and Deputy Collectors to be subject to direction and control of the Commissioners and the Boards of Revenue.

CLI. In the performance of their duties under this Act, the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Boards of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinates.

No appeal from order of Collectors and Deputy Collectors in certain cases.

All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner, and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof or after decree and relating to the execution thereof, shall be open to revision or appeal other wise than as expressly provided in this Act.

Time for presenting appeals from orders.

CLII. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days from the date of the order. Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case, and pass such orders thereon as they may think proper.

No appeal from any decree of Collector for money below 100 Rs., unless the decision involve some question of right to enhance rents or some question relating to a title to land.

CLIII. In suits under Clauses 2, 4, and 7 of Section XXIII. and under Section XXIV. of this Act, tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed one hundred Rupees, the judgment of the Collector shall be final, and not open to revision or appeal, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a ryot or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in Sections CLX. and CLXI. of this Act.

In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.

CLIV. In suits in which the judgment of the Collector is final as provided in the last preceding Section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce at the time of trial.

Appeal from decision of Deputy Collector.

CLV. When any such suit as aforesaid, in which if tried and decided by a Collector, the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

CLVI. The petition of appeal shall be written on stamp paper of eight annas value, and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Petition of appeal to be on stamp paper, &c.

CLVII. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons. If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant shall appear and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex parte*.

Procedure in appeal.

CLVIII. If an appeal be dismissed for default of prosecution, the appellant may within fifteen days from the date of the dismissal apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Re-admission of appeal.

CLIX. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

Judgment in appeal.

CLX. In all suits other than those in which when tried and decided by a Collector, the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zillah Judge; unless the amount or value in dispute exceed five thousand Rupees, in which case the appeal shall lie to the Sudder Court.

In what suits appeal to lie to Zillah Judge.

To Sudder Court.

CLXI. The petition of appeal shall be written on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal, and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zillah Judge or Sudder Court under this Act.

Rules regarding presentation and hearing of appeals.

CLXII. Suits under this Act shall be preferred in the Revenue Office of the District, or when a Sub-division of a District has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the Sub-division in which the cause of action shall have arisen. Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement or at one entire rent in respect of which arrears of rent may be due are situated in more than one District or Sub-division, the District or Sub-division in which the greater part of such lands is situate, shall be held to be the District of Sub-division in which the cause of action has arisen; and if any question shall be raised respecting the District or Sub-division in which the greater part of the lands

Suits to be preferred in the Revenue Office of the District or sub-division in which the greater part of the lands is situate.

is situate, the Board of Revenue, or if all the lands be situate in one District, the Collector of the District shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Except as above, Collector not to exercise jurisdiction in respect to lands situate beyond his District.

CLXIII. Except as provided in the last preceding Section, no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the District to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the Treasury of the said District.

Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.

CLXIV. No Deputy Collector appointed under Regulation IX., 1833 of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any Police functions.

What powers to be exercised by Assistants to Collectors.

CLXV. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII., 1819.

CLXVI. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent Putnee Talooks and other similar tenures under the provisions of Regulation VIII., 1819.

Commencement of Act.

CLXVII. This Act shall commence and have effect from and after the 1st day of August 1859.

"Civil Jail"

CLXVIII. The words "Civil Jail" as used in this Act shall include the Civil Jail of the Zillah and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act. The word "Nazir" shall include any Officer of a Court authorized to serve or execute its process. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

"Nazir."

Number.

Gender.

SCHEDULE.

FORM A. (*See Section* 44.)

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[*Name, description, and address of plaintiff.*]

C. D., Defendant.

[*Name, description, and address of defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for

(here specify particulars of claim as given in the statement,) you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state, "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"*] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you witnesses, if they are willing to attend without issue of process.

FORM B. (*see Section* 49.)

FORM OF WARRANT OF ARREST.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of——

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 185 .

FORM C. (*see Section* 49.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[*Name, description, and address of plaintiff.*]

C. D., Defendant.

[*Name, description, and address of defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for *(here specify particulars of claim as given in the statement)* and has obtained warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM D. (*see Section* 51.)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D. defendant, and said C. D. has been required to give security for his apppearance at any time when called on while the suit is pending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such ppearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.

FORM E. (*see Section* 86.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of ——

Whereas the said C. D. was directed by a decree of this Court, under date the day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM F. (*see Section* 86.)

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of ——

Whereas C. D. was directed by a decree of this Court under date the day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [*if no list is furnished, these words to be ommited*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D. on same convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FORM G. (*see Section* 124.)

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description, and address of the owner of the property.*]

Whereas the said A. B. has applied to have the distrained property specified below, sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 185 .

ACT NO. VIII. OF 1835.

PASSED BY THE RIGHT HONORABLE THE GOVERNOR GENERAL OF INDIA IN COUNCIL ON THE 8TH JUNE 1835.

Be it enacted, that such parts of Clause 7, Section 15, Regulation VII., 1799, of the Bengal Code, and other Regulations in force, as vest the Judge of Dewanny Adawlut with the power of bringing to sale, in execution of Summary Decrees for

rent, the Talook or other tenure of the defaulter, and so much of Clause 3, Section 23, Regulation VII. of 1822, of the same Code, as prohibits the Collectors from selling land in satisfaction of Summary awards for arrears of rent, which may have accrued thereon, be rescinded, and that the power heretofore vested in the Judges of the Dewanny Adawlut of selling land in satisfaction of Summary Decrees for rent, be transferred to the Collectors of land revenue.

II. And be it enacted, that all sales for the recovery of arrears of rent or Revenue, held under Clause 7, Section 5, or Clause 6, Section 23, or Section 25, Regulation VII. of 1799, shall be public, and be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice shall be given of such sales, by advertisement, to be stuck up at the Cutcherry of the Zillah Court or local Adawlut, and that of the Collector.

EXTRACTS from the Code of Civil Procedure (*Act* VIII. *of* 1859), *referred to in the Circular—Sections* 180, 181, 248 to 272.

180. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any *mesne* profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases unless otherwise directed by the order of appointment, the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of enquiry; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions taken by him shall return the depositions, together with his report in writing, subscribed with his name to the Court. The report and depositions shall be taken as evidence in the suit, and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

Commission for local investigations.

The report and deposition to be taken as evidence in the suit, but the Commissioner may be examined in person.

181. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such Officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his investi

Commissioner may be appointed to investigate and adjust account.

gation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them; in which case the Court shall make such further enquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumtances of the case.

Of Sales in execution of Decrees.

248. Sales in execution of decrees shall be conducted by an Officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government, and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Sales to be by public auction.

Exception as to negotiable securities and shares in public companies.

Sale by Collector of lands paying revenue to Government.

249. In all cases of intended sale by public auction, whether of movable or immovable property, in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate, when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the district. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge, who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land or of any right or interest in land, the written notification shall also be affixed in the Office of the Collector of the district, in which such land is situate and in the Court-house of the principal Civil Court of the district where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until aftee the expiration of at least thirty days in the case of immovable property, and of at least fifteen days in the case of movable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

Notification of sales by public auction.

Time of sale.

250. The usual process for attachment and sale when the property to be attached consist of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper.

The process for attachment and sale, may in certain cases be issued simultaneously.

251. In all cases of sale of movable property, the price of every lot shall be paid for at the time of sale or as soon after as the Officer holding the sale shall direct, and in default of such payment, the property shall forthwith be again put up and sold. On

Mode of payment on sale of movable property.

payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale of movable property, but any person injured, may recover damages by suit.

252. No irregularity in the sale of movable property under an execution, shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Deposit by purchaser in case of sale of immovable property.

253. In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit, the property shall forthwith be again put up and sold.

When full amount of purchase money to be made good.

254. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Procedure on default.

Defaulting purchaser answerable for loss by re-sale.

Notification on re-sale of immovable property.

255. Every re-sale of immovable property in default of payment of the purchase money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sale.

Confirmation of sale.

256. No sale of immovable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity, unless the applicant shall prove to the satisfaction of the Court, that he has sustained substantial injury by reason of such irregularity.

The sale if not objected to, for irregularity, or if the objection is disallowed, shall become absolute.

When the order to set aside a sale shall be open to appeal.

257. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be disallowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal, and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final, and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

If the sale be set aside, price to be returned to the purchaser.

258. Whenever a sale of immovable property is set aside, the purchaser shall be entitled to receive back his purchase money, with or without interest in such manner as it may appear proper to the Court to direct in each instance.

259. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant, in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to be granted to purchasers of land.

260. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the purchase on the ground that the purchase was made on behalf of another person, not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Certificate to state the name of actual purchaser.

261. Where the property sold shall consist of goods, chattels, or other movable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of movable property in the possession of defendant.

262. Where the property sold shall consist of goods, chattels, or other movable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall, as far as practicable, be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of movable property to which defendant is entitled subject to lien.

263. If the property sold shall consist of a house, land, or other immovable property, in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created be the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immovable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery of immovable property in the occupancy of defendants, &c.

264. If the property sold shall consist of land or other immovable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immovable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of immovable property in the occupancy of ryots, &c.

265. Where the property sold shall consist of debts not being negotible instruments or of shares in any Railway, Banking, or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of debts not being negotiable instruments, and of shares in public Companies.

266. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Delivery of negotiable securities of which actual seizure has been made.

267. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect—"A. B. by C. D. Judge of the Court (*or as the case may be*;) in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made or document executed or receipts signed aforesaid shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Transfer of securities and shares.

268. If the purchaser of any immovable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in Sections 226, 227, and 228, relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Resisting or obstructing purchasers in obtaining possession of property.

269. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant claiming a right to the possession of the property sold as proprietor, mortgage, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Obstruction by claimant other than defendants.

270. Whenever property is sold in execution of a decree, the person on whose application such property was attached, shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Attaching creditor to be first paid out of property attached.

271. If, after the claim of the person on whose application the property was attached, has been satisfied in full, from the proceeds of the sale, any surplus remain, such surplus shall be distributed ratably amongst any other persons, who prior to the order for such distribution may have taken out execution of decrees against the same defendant and not obtained satisfaction hereof. Provided that, when any property is sold subject to a mortgage, the mortgage shall not be entitled to share in any surplus arising from such sale.

Surplus to be ratably distributed among decree-holders who have taken out execution prior to the order for distribution.

Proviso where property is sold subject to a mortgage.

Court may on application order another decree-holder to be satisfied out of the proceeds of property attached under a decree obtained fraudulently.

272. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached, was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached, so far as the same may suffice for the purpose, if such other decree be a decree of that Court, or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

CIRCULAR ORDER No. R. OF 1859.—*From* F. B. OUTRAM, *Esquire, Officiating Secretary, Sudder Board of Revenue, North Western Provinces, to the Commissioner of —Dated Allahabad, the 7th September* 1859.

SIR,—I am directed by the Sudder Board of Revenue to request, that the quarterly returns of suits instituted under Act X. of 1859, prescribed in Circular No. 2, dated 3rd ultimo, may be submitted, drawn up according to the official year, from the quarter commencing with the 1st of August, the date on which the Act came into operation.

2. As these returns are intended to be compiled in your office from the Collectors' monthly statements, a sufficient number of the requisite forms now in the press will be forwarded to you at an early date.

ABSTRACT.

SUITS INSTITUTED UNDER ACT X. OF 1859.

Board point out that the quarterly returns prescribed in Circular No. 2, dated 3rd ultimo, should be drawn out according to the official year.

CIRCULAR ORDERS OF 1859.—*From* F. B. OUTRAM, *Esquire, Officiating Secretary, Sudder Board of Revenue, North Western Provinces, to the No. S.—Dated Allahabad, the 20th September* 1859.

SIR,—IN continuation of Circular Order F., dated 26th April 1859, the Sudder Board of Revenue, with the approval of Government, call the attention of the Revenue Authorities to the Memorandum of the Consulting Engineer to Government, dated 4th ultimo, with the form and exemplars annexed, for maintaining a continuous and correct register of all lands occupied by every separate Railway Company in each District.

2. It will be seen on a careful perusal of the Memorandum and its annexures, that its object is to balance the record of entries of lands appropriated, some of which are retained, others wholly or partially relinquished, so as to show at the close of every year the exact status of possession and liability of each separate Railway Company in every District.

3. The register does not supercede the register prescribed by the Circular Order of the Board above mentioned, which is a continuous record of appropriations for Railway purposes under the several classes, as such have been made, or may hereafter be made, with a margin for insertion of notes opposite any entry subject to subsequent change. This, in the Vernacular office, will always be most useful for reference, and will assist in the compilation of the Consulting Engineer's register, which is intended to be an English record only.

4. It is not anticipated that the entries will be numerous; but care must be taken that such are intelligently and accurately made, and the record always kept up to time, so that there may be no error or confusion in rendering a transcript of particulars of the status existing when required.

5. The 30th June has been selected, being the last day of the agricultural and settlement year of these Provinces. The Collectors will pay attention to the rule in paragraph 11.

6. Should any Collector have doubts in any case, the Consulting Engineer will readily explain to him the proper mode of entry or exception.

ABSTRACT.

BOARD, in continuation of Circular F., dated 26th April, call the attention of the Revenue authorities to the Memorandum of the Consulting Engineer to Government, dated 4th August, with the form and exemplars annexed for maintaining a continuous and correct register of all lands occupied by every separate Railway Company in each District.

MEMORANDUM.

RECORD OF RAILWAY LANDS.

For the due fulfilment of the orders* of the Government of India, it is imperatively necessary to maintain at all times a correct register and record of all lands occupied by *every separate Railway Company*, or by any Company under each of several contracts with Government, in the offices of the Sudder Board of Revenue, of the Consulting Engineer to Government, and of the Collectors of "Railway" districts.

* No. 852, Public Works Department, 21st January 1859.

2. To this end the annexed form of register has been prepared in communication with the Sudder Board of Revenue, and approved by Government.

3. For the Board's and Consulting Engineer's offices there will be one record book for each line of Railway; each book containing the whole record of the land occupied by the Railway in the several districts which it traverses

4. A volume of forms will be forwarded to each Collector for the record of land occupied in his District by the Railway therein named, in which every sanctioned grant, transfer, or release of land occupied on account of that Railway in each District, will be entered in chronological order.

5. Every sanctioned grant, transfer, or release, will be communicated to the Collector through the Board, in the form of a Land Plan depicting the land concerned and a schedule in the form attached to Public Works Department letter, No. 852, dated 21st January 1859, each countersigned by the Consulting Engineer or Deputy Consulting Engineer to Government, North Western Provinces.

6. Under the Rules for the guidance of Collectors and of Engineers in giving and taking over land, no land is to be made over to any Railway Company under any other authority than that of sanctioned plans and schedules.

7. The nature of the requisite entries in the several columns of the record is carefully explained in the Memorandum on the inside of the book.

8. On the first page are examples of various transactions which are severally explained below.

No. 1. The commonest of all is a grant of land under class A., referred to in paragraph 5, of the Government order. Under this column, land for the whole length of a line in any one pergunnah sub-division of a district, may be included in one entry, and represented in one continuous plan; but separate schedules will always be furnished for each estate or village, for record with the village papers.

Column 1.

Nos. 2, 3, 4, are simple grants of land under class B, D and C, referred to in paragraph 6, 7 and 8, of the Government order.

The instruction of paragraph 7 of Government Order that all land of whatever class is to be taken possession of by Government, and that the primary settlement of all compensation is to be made by, and on account of, Government is repeated in the form.

No. 96 is a record of land temporarily occupied by the Railway Company in class B, and returned when no longer required as provided in Government order, paragraph 6. The entry being *negative* is made in red ink.

In balancing the record the item disappears altogether, the original grant being cancelled.

No 97 illustrates the case of a transfer of land temporarily occupied under class B, to the permanent class A. The entry in B is negative, in A positive. In the following Abstract the amount disappears from B and is included in A.

No. 124. This is a case in which the Railway Company may be permitted to give up a part of any plot of land previously occupied under sanction. The corresponding diminution of yearly rental payable by Railway Company on account of the original parcel of land is shown in column 16, and the amount of deterioration assessed at the time of release is entered in column 17, as chargeable to the Railway Company under paragraph 7 of Government order.

9. On the 30th June of every year the record will be balanced as shown, and the results of the balance carried over at the first entry of the following year. A copy of the record of each year will be submitted to the Board annually on the 30th June, for check in the Board's office, and in that of the Consulting Engineer to Government. It will be observed that the Return of 30th June 1860, will include all the transactions of the year then concluded, and a balanced and corrected abstract. The Return of 30th June 1861 will detail the transactions of the year then terminated, together with the abstract corrected to date; but it will not repeat in detail the transactions of 1860; and so on.

10. Thus the yearly Returns will be very brief; but it will be necessary that the record should be maintained with the greatest punctuality and care. The entries of columns 1, 2, 3, 4, 7, 10, 13 will be made on receipt of notification of each grant of land, and the particulars to be noted in other columns will be entered so soon as sanction has been obtained to the abatements of jumma and amounts of compensation.

11. On the 30th June of each year, Collectors will present to Railway Companies, Bills for the amount of rent shewn in column 16 for the year then concluded.

12. The compensation payable by Railway Company under column 17 will be recovered by Collectors from time to time at the period of making over the land to which it relates.

EXPLANATION OF REGISTER.

COLUMN 1 requires no explanation.
" 2 date of sanction for appropriation of the land as recorded on the Engineer's schedule.
" 3 the information in this column will be supplied on the face of the plan and schedule.
" 4 area to be shewn in standard acres, roads and poles.
" 5 annual amount of remission of Jumma sanctioned.
" 6 amount of compensation paid in money for loss of profits or tenures, houses, trees, tanks and wells, &c., and ratable cost of establishment, where chargeable, less the amount realized by of sale of materials and trees, and credited to Government.
" 7 vide Column 4.
" 8 " " 5.
" 9 " " 6.
" 10 " " 4.
" 11 " " 5.
" 12 " " 6.
" 13 " " 4.
" 14 " " 5.
" 15 is the total amount of compensation paid by Government and ratable cost of establishment, where chargeable, without deduction of amount realized from sale of materials and trees, which under class C belongs to the Railway Company. See para. 10 of P. W. D., 852.
" 16 yearly rental, being fixed amount payable by the Railway Company to the Collector on the presentation of bills due on the 30th June annually.
" 17 same as 15. This amount is payable by Railway Companies to Collector on presentation of bill at the time the land is made over.
" 18 Remarks.

REGISTER OF LANDS IN OCCUPATION OF THE EAST INDIAN RAILWAY

REFERECNES TO SANCTION.		SANCTIONED PURPOSE.	Class A in permanent occupation of Railway Company.			Class B in temporary occupation of Railway Company.		
			PAYABLE BY					
No. of Plan.	Date of sanction.		AREA.	Abatement of Assessment.	Net cost of compensation and clearance.	AREA.	Abatement of Assessment.	Net cost of compensation and clearance.
1	2	3	4	5	6	7	8	9
			A. R. P.	Rs. A. P.	Rs. A. P.	A. R. P.	Rs. A. P.	Rs. A. P.
1	8th June 1856.	Allahabad Station,	40 3 7	250 6 4	402 9 7			
2	24th June 1856.	Temporary Storage of P. W. M. at Kutchpoorwa, ...	...	...	...	26 4 2	78 6 2	124 0 0
3	24th June 1856.	Diversion of road at Kyd Gunj, ...	...	...	...	...	...	...
4	1st July 1856.	Drivers' Barracks, Allahabad, ...	...	...	...	...	...	...
96	2nd August 1859.	Land for temporary Storage of P. W. M. at Kutchpoorwa, released, ...	...	...	...	†26 4 2	78 6 2	124 0 0
97	2nd August 1859.	Permanent Store Shed on Land occupied for temporary storage of P. W. M. at Kutchpoorwa, ...	26 4 2	78 6 2	124 0 0	†26 4 2	78 6 2	124 0 0
124	1st May 1861.	Part of land for drivers' barracks at Allahabad, released,	...	...	...	...	...	...
Abstract Corrected and balanced 30th June 1860, ...			66 7 9	328 12 6	526 9 7	Nil.	Nil.	Nil.
1st July 1860,... ... By Balance as above,...			66 7 9	328 12 6	526 9 7	Nil.	Nil.	Nil.

COMPANY (EXTENSION LINE) IN ZILLAH ALLAHABAD.

Class D. occupied by Government, Permanent.			Class C. in occupation of Railway Company, Permanent or temporary.					
GOVERNMENT.						Payable by Railway Company to Govt.		
Area.	Abatement of Assessment.	Net cost of compensation and clearance.	Area.	Abatement of Assessment.	Total cost of compensation.	Yearly Rental.	Total cost of compensation.	REMARKS.
10	11	12	13	14	15	16	17	18
A. R. P.	Rs. A. P.	Rs. A. P.	A. R. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
2 4 6	12 1 8	Nil.						
...	...	...	25 4 6	83 10 7	1363 4 7	83 10 7	1363 4 7	† The grant of this land in class B. was sanctioned. No. 86, dated 2nd August 1859. The entries in B. will disappear from next year's return.
...	...	...	8 2 3	25 10 8	...	25 10 8	141 0 0	124. This is part of the land sanctioned as No. 4 of 1st July 1856, corresponding abatement of No. 4 will be made in Columns 13 and 14 of next year's return.
								* Payable for deterioration assessed at date of release, under para. 7 of Govt. order.
2 4 6	12 1 8	Nil.	17 2 3	57 15 11	1363 4 7	57 15 11	1404 4 7	
2 4 6	12 1 8	Nil.	17 2 3	57 15 11	1363 4 7	57 15 11	1404 4 7	

A. B.
Collector.

(COPIES.)

No. 3 of 1859.—CIRCULAR ORDERS *by the Sudder Board of Revenue, North Western Provinces, to all Revenue Authorities, in the North Western Provinces, Dated Allaahabad, 24th January* 1859.

WITH the sanction of Government, the Sudder Board of Revenue direct the attention of all Revenue Authorities, to the following rules respecting the office and duties of Canoongoes in the North Western Provinces :—

Board, with the sanction of Government, direct the attention of all Revenue Authorities, to the rules laid down respecting the office and duties of Canoongoes.

1*st*.—The designation of Canoongoe, fixed by Regulation IV., 1808, will remain unchanged.

2*nd*.—The distribution of the Canoongoe's duties should be territorial, one or more pergunnahs being the charge of a single Canoongoe, or in the case of more than one being required for a very extensive pergunnah, a fair geographical division being made between them.

3*rd*.—The office of Canoongoe is not hereditary; but for vacancies selection should be made of the fittest member of the family, or in default of such fitness from some local family of good repute.

4*th*.—Canoongoes may employ Gomashtas to assist them in their duties, such being relatives, connections, or otherwise, but the names of such employés must be submitted for approval of the District Officer, the Canoongoes must give a written acknowledgment of responsibility for their conduct, and must settle with them for their remuneration.

5*th*.—Certain duties of the Canoongoe formerly prescribed by Regulation IV., 1808, have been absolete and prohibited for many years past, viz., the registry of Ryottee Pottahs and attestation of private, deeds of transfer.

6*th*.—Other duties therein declared, or which have been imposed by subsequent rules, are those of pergunnah registrar and attester of certain accounts and statements.

7*th*.—In the capacity of pergunnah registrar, the Canoongoe should keep up the following registers :—

1. Register of mouzahs in the pergunnah with note of any transfers made to or from other pergunnahs.
2. Register of Lakhiraj tenures for each perguunah, one of which will be of tenures in perpetuity, another of tenures for life, and a third of tenures not exceeding 10 beegahs.
3. Register of civil pensioners residing in the pergunnah, with separate note deomfise.
4. Register of putwarees with separate note of mutations.
5. Register of Nuzool properties in the pergunnah.
6. Register of bonds hypothecating real property as security to Government with certified valuations. In this capacity also the Canoongoe is expected to have full knowledge of his charge, and to be prepared readily to furnish local information when required.

8. In his other capacity of official attester, the Canoongoe's duty is :—

I. Reporting the issue of dustucks as required by standing rules.

II. Keeping a duplicate set of the prescribed Seaha and Khuteonee of the tehseel office.

III. Countersigning accounts kept by Revenue Officers, including dakhillas furnished to parties paying revenue.

IV.. Receiving, examining, and arranging the papers, putwarees are required to enter and bring to the notice of the tehseeldars any irregularities.

V. Auditing the accounts of properties under direct management.

VI. Conducting local investigations in person, or verifying the proceedings of subordinate officers employed in such duties.

These duties necessarily require the punctual attendance of the Canoongoe at the Tehseel Office during the hours of business, or of a representative, if he should be unavoidably absent.

NOTIFICATION.

Sudder Board of Revenue, North Western Provinces.—Dated Agra, 13th January 1859.

UNDER orders of Government bearing date 5th instant, No. 33, it is hereby notified for general information, that from and after the date of this Notification, salt which has been imported from the westward into the town of Saugor, without payment of duty, will not be permitted to leave it, in any direction, until the usual Government duty has been paid; and hereafter all salt, imported as above, found crossing the Customs line uncovered by a Rawannah, will be liable to confiscation, and its owners to the penalties described in Act XIV. of 1843.

CIRCULAR ORDER No. 1.—*By the Sudder Board of Revenue, North Western Provinces, to all Revenue Authorities in the North Western Provinces.—Dated Agra, the 15th January* 1859.

UNDER instructions from the Government, the Sudder Board of Revenue for the North Western Provinces, require strict and uniform attention to the rules for prevention of disposal of country spirits to European soldiers on the line of march. Appendix XIII. of the law and rules relating to Abkaree.

2nd.—Endeavours should be made always to give timely notice to the Tehseeldars of the expected arrival of European troops within the limits of their circles, in order that they may adopt the preventive measures enjoined by the rules.

3rd.—Further to ensure their observance, the Collectors are directed to warn the Tehseeldars to adopt the requisite precautions, whether intimation of approach of European troops is received from their official superior, or through any other channel.

4th.—The Commissioners are requested to see that the rules are rigidly enforced throughout every district of their Division.

ABSTRACT.

Board, under instructions from the Government, North Western Provinces, issue orders with reference to Appendix XIII. of the Abkaree Law and Rules for the prevention of disposal of country spirits to European soldiers on the line of march.

No. 2.—*To all Revenue Authorities in the North Western Provinces.—Dated Allahabad, the 2nd July* 1859.

THE Sudder Board of Revenue for these Provinces, under which postage is levied on packets containing deeds requiring to be stamped and sent to and from the office of the Superintendent of Stamps, direct the cancelment of their Circular Order No. I. of 1856.

2nd.—This cancelment will be noted at the foot of the Circular Order, abovementioned, at page 67 of the Law and Rules relating to stamps.

ABSTRACT.

Board direct the cancelment of their Circular Order, No. 1, of 1856.

CIRCULAR ORDERS

OF THE

ACCOUNTANT'S OFFICE,

NORTH WESTERN PROVINCES,

FOR 1859.

CIRCULAR NO. 408 OF 1858-59.—*From* CHARLES GRANT, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 3rd January* 1859.

THE introduction of Stamped Envelopes, and Note Paper, in the Postal Department, having rendered it necessary to alter the form of Voucher hitherto in use, as prescribed in Circular No. 304, dated the 24th August 1854, to support charges; in your Treasury Accounts on account of Discount on the sale of postage stamps, I have the honor to annex a form adapted to the present requirement, and agreeably to which you will be good enough to furnish vouchers in support of charges in your future accounts, commencing with the present month.

FORM.

Statement of Discount paid on Postage Labels, Stamped Envelopes and Note Paper sold during the month of January 1859.

Date of the month.	Name of official Vendors entitled to discount at the rate of 1 anna per Rupee, from 5 Rs. and upwards.	Name of private purchasers entitled to discount at ½ anna per Rupee, from 5 Rupees and upwards.	Number and description of Postage Labels sold.		Value of Postage Labels sold.	Number and description of Stamped Envelopes sold.		Value of Stamped Envelopes sold irrespective of the value of the Paper.	Number of sheets of Stamped Note Paper sold.		Value of Stamped Note Paper sold exclusive of the cost of the Paper.	Total amount Sale of Postage Labels, Stamped Envelopes and Note Paper on which discount is chargeable.	Total Amount on Discount.
1st.	Treasurer	„	4 as.	29	5 0 0	1 as.	160	10 0 0					
	or any	„	2 „	40	5 0 0	½ „	160	5 0 0	½ as.	40	1 4 0		
	other	„	½ „	200	6 4 0								
	authorized							15 0 0			1 4 0	32 8 0	2 0 0
	vendor				16 4 0								
	(name to be inserted.)												
19th.		Bcharry	8 as.	50	25 0 0	1 as	70	4 6 0	½ as.	200			
		Lall,	4 „	30	7 8 0	½ „	109	3 2 0			6 4 0		
		„	2 „	50	6 4 0								
		„	1 „	100	6 4 0			7 8 0			6 4 0	74 6 0	2 5 0
		„	½ „	500	15 10 0								
		„			60 10 0						Total,	... ...	4 5 0

I hereby Certify, that the above allowances of Discount have been actually paid to the vendors indicated above.

Agra Collector's Treasury,
The 1st January 1859.

(Signed) A. B.
In charge of Treasury.

CIRCULAR No. 109 of 1858-59.—FROM C. GRANT, *Esquire, Accountant, N. W. Provinces, to* *Dated Agra, the 19th January* 1859.

UUNDER orders of the Government of India, in the Home Department, I have the honor to request that, you will be good enough, in future, to withhold advances of money to Officers of the Telegraph Department, except upon applications duly countersigned by the Superintendent of Electric Telegraphs in India.

CIRCULAR No. 410 OF 1858-59.—FROM C. GRANT, *Esquire, Accountant, N. W. Provinces, to* *Dated Agra, the 17th February* 1859.

I HAVE the honor to request, that you will consider the additional note, circulated with my Circular No. 396, dated the 20th September last, as cancelled, and subjoin the following amended Note to para. 100, page 10, of the Pamphlet on Bills of Exchange. The rule you will observe, is *not* applicable to *Chartered* Banks or Institutions.

AMENDED NOTE.

In law it is essential to the validity of a Bill drawn in favor of an Unchartered Bank or other institution, that the name, as well as designation of the payee, should be specified in it; and the receipt or endorsement of the individual so named as payee, is necessary as an acquittance. Where the connection of such payee with the institution has ceased before presentation of the Bill, and his signature cannot be obtained, it may be paid on the receipt or endorsement of his successor in office, on his furnishing an indemnity.

CIRCULAR No. 411 OF 1858-59.—FROM C. GRANT, *Esquire, Accountant, N. W. Provinces, to* *Dated Agra, the 19th February* 1859.

I HAVE the honor to draw your attention to Notification No. 9 of the Government of India, in the Financial Department, dated the 10th instant, and published in the *Calcutta Gazette Extraordinary* of that date; throwing open the Local Treasuries under the several Local Governments to the reception of Subscriptions for the purchase of Treasury Bills, and to request that, on such subscriptions being paid into your Treasury, you will grant acknowledgments for the same, and enter the amounts in your Treasury accounts, under the head "to Government of India" as *money received for the purchase of Treasury Bills.*

Should holders of the acknowledgments granted by you, be desirous of having them exchanged for Treasury Bills through you, you will have the goodness to forward the acknowledgments for that purpose to the Accountant General to the Government of India, in the Loan Department, in the same manner as in cases of subscriptions to the 5 per cent. loan.

CIRCULAR No. 412 OF 1858-59.—FROM C. GRANT, *Esquire, Accountant, N. W. Provinces, to* *Dated Agra, the 11th April* 1859.

I HAVE the honor to request, with a view to the saving of clerical labor as well as to ensure uniformity of practice, that in future, on occasions of transfer of charge of Treasury, only one copy of the Statements of Miscellaneous

advances and of Balances of Cash, Stamps, and Opium in Store, signed by the relieving Officer as well as the Officer relieved, be submitted to this Officer for record.

CIRCULAR No. 413 OF 1858-59.—FROM F. LUSHINGTON, *Esquire, Officiating Accountant, N. W. Provinces, to* *Dated Agra, the 21st April* 1859.

THE new forms of Registers of Revenue Deposits introduced by my predecessor's Circular No. 361, dated the 30th December 1856, appearing to require modification, and the explanatory remarks contained in that Circular being susceptible of simplification, I have the honor to request that you will consider those forms and the Circular above cited as hereby superceded.

The forms of Registers of Receipts and Re-payments of Revenue Deposits now prescribed for use, are hereto annexed marked with the letters A. and B.

Every item of deposit received or disbursed should be entered at once in the public accounts, and Registered under its appropriate heading, the requisite particulars being noted opposite to it in the first 4 columns of the Statement. The entries under columns 1 to 4, 8, and 14, 15 and 20, should be made without assigning Nos. to the items of receipt, but those coming under the remaining columns, should have individual deposit Nos. affixed to them. At the end of the month the entries under all the headings should be totalled as they stand, both in the Register of Receipts and the Registers of Re-payments.

Should Mouzawar, Illakawar, or Departmental Sub-divisions be necessary for the purposes of adjustment, they may be adopted at the local Treasury, but are not required for the purposes of this Office.

The practice of consolidating several items of old standing into one item with a new number attached to it, should be discontinued.

A.

Register of Receipts of Revenue Deposits of

No. of deposits.	Date of Deposits.	Names of the Depositors.	Particulars of Deposit.	1	2		3	4	5	6	7	
				Tullubanah.	Zemindars percentage Fund.	Postage of district dawk.	Chowkeedaree.	Road Fund.	Employees of Kham villages and putwarees Fund.	Criminal Court's attachments.	Civil Court's attachments.	

Zillah *for the month of*

8		9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
Copyists Fees.	Inspection Fees.	Revenue Amens.	Salaries of establishment and leave or under attachments	Departmental deposits.	Revenue processes.	Miscellaneous.	Ferry Fund allotments.	Land revenue of ensuing year's kists.	Fines.	Malikanah.	Abkaree.	Courts of Wards.	Forest collections.	Stamp penalties.	Summary suits.	Total.	Remarks.

B.

Register of Repayments of Deposits of

Date of Repayment.	No. of Voucher.	Particulars of deposits.	How disposed of.	1	2		3	4	5	6	7	8		9	10
					Dawkana.							Mohafiz Dufter's Fees.			
				Tullubanah.	Zemindar's percentage Funds.	Postage of District Dawks.	Chowkeedaree.	Road Fund.	Employers of kham villages and putwarees Fees.	Criminal Court's attachment.	Civil Court's attachments and sales.	Copyist's Fees.	Inspection Fees.	Revenue Ameens.	Salaries of Establishment on leave under attachment.

Zillah *for the Month of*

11	12	13	14	15	16	17	18	19	20	21	22	23	
Departmental deposits.	Revenue Processes.	Miscellaneous.	Ferry Fund allotments.	Land Revenue of ensuing year's kists.	Fines.	Malikanah.	Abkaree.	Courts of Wards.	First collections.	Stamp penalties.	Summary suits.	Total.	Remarks.

CIRCULAR No. 414 OF 1858-59.—*From* F. LUSHINGTON, *Esquire, Officiating Accountant, N. W. Provinces, to* *Dated Agra, the 20th April* 1859.

IN modification of Circular G. of this Office, dated the 28th June 1855; I have the honor to inform you, that fixed allowances on account of the periodical repairs of Tehseeldar's, Moonsiff's, Sudder Ameen's and Principal Sudder Ameen's Cutcherries and Police Thannahs, are to be treated in the Public Accounts as charges debitable respectively to the heads "Revenue Charges General," "Judicial Charges General," and "Provincial Police" instead of to "Public Works" "Ordinary" under support of Bills audited by the Civil Auditor.

CIRCULAR No. 415 OF 1858-59.—*From* F. LUSHINGTON, *Esquire, Officiating Accountant, N. W. Provinces, to* *Dated Agra, the 20th April* 1859.

UNDER intimation received from the 1st Assistant Accountant General to the Government of India, bearing date the 7th instant, No. 9569; I have the honor to state for your information, that henceforth Pay Masters will furnish you direct with monthly advices, in the accompanying form, of their probable monetary requirements for the month from your Treasury, to which advices you will have the goodness to pay every attention.

These advices cannot fail to be of material service to you in the preparation of your monthly estimates for transmission to this Office.

ADVICE for the Collector of

EXTRACT of Estimate submitted to the Accountant General showing the probable requirements for the Pay and Allowances of Troops dependent on the Pay Office, for the month of 18 to be issued in the coming month of 18 from the Treasury.

No. of Troop.	No. of Battn.	No. of Co.	No. of Regt.	Corps.	Where Stationed.	Amt. required for each Corps.	Total.

(True Extract.)

Pay Office,
The 18 .

Deputy Pay Master.

CIRCULAR No. 416 OF 1858-59.—*From* F. LUSHINGTON, *Esquire, Officiating Accountant North Western Provinces, to Dated Agra, the* 20*th April* 1859.

UNDER instructions from the Government, N. W. Provinces, bearing date the 11th instant, No. 306, I have the honor to intimate, that all sums which may hereafter be tendered at your Treasury by Commandants of Military Police Corps for deposit as "Chunda" or "Horse Fund," should be received and credited in your Treasury account under that head Subordinate to "Deposits of the Revenue Department."

The receipts and repayments on account of this Fund should be regulated under the general rules for the receipt and repayment of all other kinds of Deposits, except that in the present case, stated periods should be fixed by you once or twice during the month for receipts and withdrawals.

The Receipts and documents necessitated by transactions growing out of this new description of deposits, should be prepared by Commandants of the Police Corps and submitted to you for signature, with a view to prevent the further accumulation of work at your Treasury.

CIRCULAR No 417 OF 1858-59.—*From* C. GRANT, *Esquire, Accountant, North Western Provinces, to Dated Agra, the* 9*th April* 1859.

HERETOFORE it has not been usual to send Treasure under escort of European Infantry, Artillery or Cavalry; but under the altered state of the country, it will be necessary to take advantage of any body of troops passing through a district for the protection of Government Treasure which the Civil Authorities may have occasion to remit from one station to another. I have accordingly the honor to request your attention to the following rules and instructions which are issued under the sanction of the Right Hon'ble the Governor General, and with the approval of his Excellency the Commander-in-Chief in the Military Department.

2. When a Collector or other Officer in charge of a Treasury may find it necessary to take advantage of any body of European troops about to move from, or passing through his district for the protection of a cash remittance, it will be his duty to send a sufficient body of police or native troops to take the sentry duty and keep guard over the Treasure on the line of march: the aid of the Europeans will only be required in case of an attack on the Treasure. The Officer in Command of the European troops need not be called on to see the Treasure boxes weighed; he will only be required to see that the Podars in charge of the Treasure on the part of the Collector, and the native escort keep in proper place on the line of march, and place the Treasure, when stationary, where it can be seen and easily supported in case of danger.

3. The Podars in charge of a remittance will be entirely responsible for the contents of the Treasure boxes or tumbrils, and will make a report morning and evening to the Officer in command of the troops, and will also apply to him for advice and aid in case of any difficulty.

4. The Officer commanding the troops will make the remittance over to the consignee or to the Officer in command of a relieving escort. A Treasury Officer receiving a remittance will on no account detain the Officer who makes over a remittance, the responsibility for the contents of the Treasure boxes or tumbrils being entirely with the Podars.

5. A Collector will on no account be allowed to detain troops if unable to get his remittance ready in time, he must wait for another opportunity. Every effort should be made to gain early intelligence from the Military authorities of the expected movement of troops.

6. The Rules will apply equally when European troops may be specially appointed to escort Treasure, as when they may be marching on duty from station to station. It is not, however, expected that there will often be any sufficient cause to apply for a special European escort.

7. With every cash remittance sent under the above instructions, not less than two trustworthy Podars must accompany. With a remittance exceeding two (2) lacs of Rupees, (3) Podars must be sent in order that they may never lose sight of the Treasure day or night.

8. My Circular of the 3rd of April 1850, No. 1808, except inasmuch as it is hereby modified, must be strictly attended to.

CIRCULAR No 418 OF 1858-59.—*From* F. LUSHINGTON, *Esquire, Officiating Accountant, North Western Provinces, to* *Dated Agra, the 29th April* 1859.

WITH reference to the instructions conveyed at pages 69, and 144 to 146, of the Revised Edition of the Accountant's Manual (which is shortly expected) under the heads "Counterfeit Coin," "Short Weight Rupees," and "Silver Currency," I have the honor under orders of the Government of India, in the Financial Department, dated 11th ultimo, to request that you will, pending the passing of a New Law, act upon the advice of the Advocate General as contained in the annexed Extract of his opinion, paras. 6 to 10, dated 19th February 1859, on the subject of dealing with Coins when tendered at your Treasury, such as counterfeit, or genuine coin, which has been unlawfully tampered with, or when the coin has been diminished or impaired otherwise than by any of the five modes specified in Act XXXI. of 1839.

EXTRACT from the opinion of the Advocate General, W. RITCHIE, *Esquire, dated 19th February* 1859, *Paras.* 6 *to* 10.

6. The powers of the Revenue or other Officers of Government to break up or destroy genuine coins which have been unlawfully tampered with, but which are presented by innocent holders, are very ill-defined at common law, and special provisions for breaking up counterfeit coin, or coin unlawfully diminished, have been so often introduced by Statute* that an inference arises that some Statuary authority is necessary in order to afford a complete protection to the Officers so dealing with coins.

* Sec 6 and 7 W. 3, C. 17 and 18.
8 and 9 W. 3, C. 2655.
56 Geo. 3, C. 6817.
9 Geo. 4, C. 74 and 75.
2 W. 4, C. 13, S. 13 and 14.

7. My own opinion certainly is that, any Officer of Government to whom counterfeit coin is tendered, even by an innocent holder, is fully justified, without any Legislative authority, in cutting or breaking in two such coins, returning the pieces to the holder if no suspicion attach to him, or to any one who can be traced through him.

8. But the question is more difficult as to genuine coin which has been unlawfully tampered with; I incline to think, however, that if such coin has been actually "fraudulently clipped, filed, drilled, defaced or debased" within the meaning of Act XXXI. of 1839, which would include the cases of plugging referred to by Mr. Harvey, the Government Officers would be safe in cutting or breaking in two such coins, returning the pieces (without loss of any of the particles) to the innocent holder. I cannot see that the latter could sustain any damage that the law would recognise by the Act, as he could not himself make use of the coin as a genuine coin after being

apprised of its having been unlawfully dealt with, without a crime, and the value of the coin for any lawful purpose would not be diminished by its being broken in two.

9. Whether the course be strictly justifiable in the present state of the law or not, which is very doubtful, I strongly advise its immediate adoption at the Treasury, and by all Revenue Officers as a protection to the public against the circulation of the coin illegally depreciated, which there is a strong moral obligation on the Government to afford.

10. When the coin has been diminished or impaired otherwise than by any of the five modes specified in Act XXXI. of 1839, *e. g.* by sweating through a chemical process, which does not deface or debase the standard, much greater difficulty will exist, where it is quite certain that the diminution is owing to some chemical or unlawful process, wilfully applied, I incline to think, the Government Officers breaking it in two will be practically safe. For any subsequent uttering such coin with knowledge of its character would, in my view, be a misdemeanor at common law, though not a Statutable offence, and therefore it is difficult to see what legal damage the innocent holder in receiving back the pieces could sustain. But extreme caution will be necessary in dealing with such cases, because if the lightening or diminution of the coin can be attributed to fair wear and tear, or to lawful means, the burden of negativing which would be on the Officer breaking it, I think it clear that he would be exposed to an action by the innocent holder.

CIRCULAR No. 419 OF 1858-59.—*From* F. LUSHINGTON, *Esquire, Officiating Accountant, North Western Provinces, to* *Dated Agra, the 27th April* 1859.

UNDER instructions from the Accountant General to the Government of India in the Military Department, bearing date the 7th instant, No. 9572, I have the honor to inform you, that emergent advances to Her Majesty's Troops, quartered in your District, should be made from your Treasury on Station Orders covered by receipts, signed by the Regimental Pay Maters, and countersigned by the Commanding Officer of the Regiment.

No intimation of such advances need be given to the Accountant General in the Military Department at Fort William, the transmission of an advice to the Pay Master Queen's Troops at Calcutta by Post of the day on which the advance may be made, being all that is necessary with a view to reimbursement.

Should it, however appear, on enquiry of the Regimental Pay Master at the time the advance may be made, that the amount is likely to be recovered in a few days, by a draft of the Pay Master Queen's Troops, no advice or intimation of the advance having been made need be given by you to the latter Officer.

In case of advances to Officers of Her Majesty's Troops away from their Regiments, care should be taken to advise both the Regimental Pay Master and Pay Master Queen's Troops by the same day's post, and the same course should be adopted where detachments only are concerned.

CIRCULAR No. 420 OF 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 6th May* 1859.

IN supersession of the instructions contained in Circulars of this Office, No. 379 and 391, dated respectively the 29th May and 31st July 1858; I have the honor to inform you, that it has been ruled by the Government of India, that specie re-

mittances should invariably be weighed and examined immediately on arrival, and then credited by the consignee. You will be good enough to observe this course in future.

It has further been ruled that, when a remittance is sent to a Treasury for transmission to another Treasury, it should be examined and repacked at the intermediate Treasury and sent as a remittance from it and enterd in its accounts.

You should continue, as heretofore, to report to the remitter, the arrival of all specie remittances, on the day they are delivered at your Treasury, and notice in such report, any discrepancies that may appear between the gross weight of the boxes and the weight entered in the Invoice, as well as the general appearance of the boxes and any other matter deserving of attention.

It is also directed that, with remittances, forwarded by land, Podars should be deputed ; or, the Treasurer of the remitting Treasury, should be allowed to appoint an Agent, to be present on his part, at the opening of the boxes and the counting and shroffing of the money at the receiving Treasury. Podars are not required to attend remittances by water.

CIRCULAR No. 421 OF 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to Dated Agra, the 11th May* 1859.

THE present practice of holding Sale proceeds of unclaimed and intestate property under the head "To Deposits," pending disposal, having been found to be inconvenient, inasmuch as the Deposit Registers are encumbered with numerous items which are apt to be lost sight of ; I have the honor to request, with a view to obviate this difficulty, that you will open a head in your Treasury Account, to be styled "Sale proceeds of Unclaimed and Intestate Property," under which should be exhibited, all realizations and refunds of the sale proceeds of such property.

2nd.—You will also have the goodness to transfer to the new head, all items of the above nature, which may now be standing at credit in your deposit accounts, and exhibit a plus and minus memorandum of the head at the foot of your Monthly Treasury Accounts.

3rd.—The examination of the new head of Account, at stated intervals, in your Office, will enable you to transfer to credit of Government, without unnecessary delay, credits of more than twelve months standing which are not likely to be refunded.

4th.—It will not be necessary for you to detail the credits in the Treasury Accounts, but at the close of each year a list of the outstanding items should be furnished to this office, and the list should indicate the date on which each item was brought to credit.

CIRCULAR No. 422.

Erratum.

For No. 1808, in line first, para: 8 of the Accountant's Circular No. 417, dated 9th April last, read No. 261.

CIRCULAR No. 423 OF 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces.—Dated Agra, the 16th June* 1859.

With reference to the Notification of the Government of India, in the Financial Department, dated the 30th April last, authorizing Officers in charge of Treasuries in the several Presidencies to receive money in exchange for Treasury Bills, bearing

interest at 2½ pie per diem for every 100 Rupees; I have the honor to inform you, that sums so received, should be credited in your accounts under the heading, "Treasury Bills at 2½ pies per cent. per diem for one year," or "Treasury Bills at 2½ pie per cent. per diem for 3 months," according to the terms of the Loan Acknowledgments. The entries are to be subordinate to "Indian Loans," under "Government of India."

2nd.—On repayment or transfer of Treasury Bills, in the manner provided for by the Notification; the principal amount should be debited to the head to which it was credited, and the interest charged to the general heading of "Interest on Indian Loans," subordinate to the head "Government of India."

CIRCULAR No. 424 OF 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 17th June* 1859.

I HAVE the honor to solicit your particular attention to the orders of the Hon'ble the Lieutenant Governor of the North Western Provinces, conveyed in the following extract, para. 3, of letter No. 1812, of the 10th instant, from the Officiating Under-Secretary to my address, regarding the mode of reporting upon Deposits made prior to the mutiny, and for the repayment of which you may require the sanction of higher authority.

Extract para. 3. "His Honor concurs in the suggestion contained in para. 4 of Mr. Grant's letter, viz., that, as in many districts there is nothing to prove the payment, owing to the destruction of records; great care should be taken by the District Officer, to guard against double payments being made; that there should be a separate report in each case proposed for payment, and that the reporting Officer should state, that he is perfectly satisfied that the money was not paid before the outbreak, giving his reasons for coming to that conclusion. His Honor begs that you will issue instructions accordingly to the Collectors.

CIRCULAR No. 425 OF 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 29th June* 1859.

I HAVE the honor to subjoin, for your information and guidance, Extract para. 9 from the Circular of the Sudder Board of Revenue, N. W. Provinces, No. 1, dated 23rd September last, and to request that, should the practice of selling attested plain paper in lieu of Stamps on occasions of your stock of the latter running short, obtain at your Treasury, you will forthwith discontinue it.

EXTRACT para. IX. from Circular of the Sudder Board of Revenue, North Western Provinces, No. 1, bearing date the 23rd of September 1858.

"IX. The practice of receiving on plain paper, together with a money payment, documents which ought to be written on Stamped paper, is strictly prohibited. If the stock of Stamp paper of any value should run short, either through neglect to make timely indent on the Stamp Office, or through an improvident supply of Stamps to other districts, the Collector or Officer in charge of Stamps will be held personally responsible for any loss that may be sustained by Government in consequence. It will be the duty of the Superintendent of Stamps to report to the Board all occasions on which it may appear from the Monthly Statements or otherwise, that the store of Stamps of any particular value in any district has been exhausted."

CIRCULAR No. 426 of 1859-60.—FROM F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 6th July* 1859.

I HAVE the honor to subjoin, for your information and guidance, copy of the Circular Order of the Sudder Board of Revenue, North Western Provinces, No. 2 of 1859, dated the 2nd instant, which should be considered as superceding para. 838, page 147, of the Revised Manual.

(COPY.)—CIRCULAR ORDER BY THE SUDDER BOARD OF REVENUE, NORTH WESTERN PROVINCES, No. 2 of 1859-60.

From Secretary to Government, North Western Provinces, to all Revenue Authorities in the North Western Provinces.—Dated Allahabad, the 2nd July 1859.

THE Sudder Board of Revenue for these Provinces having received intimation of the cancelment of the rule, in the Lower Provinces, under which postage is levied on packets containing deeds requiring to be stamped, and sent to and from the Office of the Superintendent of Stamps, direct the cancelment of their Circular Order I of 1856.

2nd.—This cancelment will be noted at the foot of the Circular Order above-mentioned at page 67 of the Law and Rules relating to stamps.

CIRCULAR No 427 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 7th July* 1859.

UNDER existing orders Treasury Officers making emergent advances on receipts of Commanding Officers of Corps or Detachments in account with the Government of India, Military Department, are required to forward the original of such receipts to the Pay Master concerned, on the day in which the advance is made; and if a draft be not furnished in adjustment before the expiration of two months from such date, to charge the amounts from Miscellaneous advances to the head "Government of India, Military Department." It not unfrequently happens, however, that the receipt is not forwarded to the Pay Master by the Treasury Officer till some time after, and as the Pay Master is entitled to an interval of two months to enable him to adjust such advances by drafts; I have the honor to request that you will in such cases refrain from charging off unadjusted advances until two months after date of intimation of advance to the Pay Master concerned.

2nd.—I have to add, that should any delay occur in giving such intimation, the officer in charge of the Treasury making the advance will be held personally responsible in the event of any loss arising from such delay.

CIRCULAR No. 428 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 20th July* 1859.

UNDER instructions from the Government of the North Western Provinces, conveyed in Circular No. 3 of the 7th ultimo; I have the honor to inform you, that no charges on account of Public Works will henceforth require Audit by the Civil Auditor.

2. All expenditure on repairs or construction of Public Works incurred by Officers not subject to the control of the Chief Engineer, should be finally audited as follows:—

1*st.*—By Commissioners of Divisions within their respective jurisdictions for items not more than 500 Rupees.

2*nd.*—By the Inspector General of Prisons in the Jail Department for items not more than 500 Rupees, and

3*rd.*—By the Chief Engineer for all items exceeding 500 Rupees.

3. No Public Works expenditure (fixed Annual allowances for the repairs of Thannahs and Moonsiffees, &c., not excepted) should hereafter be included in your regular monthly contingent bills, but be drawn for in separate bills and submitted to the competent authorities for Audit. After Audit, the bills are to be charged in the Treasury accounts under the head "By Public Works" Ordinary or Extraordinary, as the case may be.

4. This Circular supercedes my Circular No 414, dated 20th April last.

CIRCULAR NO. 429 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 29th July* 1859.

IN modification of the standing Orders of this Office, as noted in the margin;* I have the honor to request that, in future, *one* separate receipt only be required for money payments at your Treasury, in addition to the receipt endorsed on the Audited Bill, Bill of Exchange, or any similar document presented for payment.

* Para. 2, Circular No. 322, dated 30th April 1855.
Para. 1, Circular No. 407, dated 31st December 1858.
Paras. 374 and 377, page 81 of the Accountant's Manual Revised Edition.
Paras. 9 and 11, page 32 of ditto.

The original Bills will continue as heretofore to be submitted with your Treasury accounts as vouchers for this Office, and the one extra receipt will remain as a part of your Treasury Records, for the joint satisfaction of your Treasurer and yourself.

For all other payments, receipts in duplicate must be taken, except in the case of Military advances, for which receipts should be taken, in triplicate, when on account of the Bengal Presidency, and in quadruplicate, when on account of the Presidencies of Fort Saint George or Bombay.

The object of this Circular is to dispense with the separate voucher heretofore required by the Treasurer. This is done in Bengal and the Punjab, *without objection on the part of the Local Treasury Officers*, and uniformity of practice in matters of account, makes it desirable that the same rule should be observed in these provinces.

CIRCULAR NO. 430 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 6th August* 1859.

WITH reference to the Circular Order of the Government of the North Western Provinces, in the Judicial Department, No. 11, dated 1st March last, relative to the grant of Licenses for the manufacture, sale, purchase, and possession of arms and ammunition; I have the honor to inform you, that all fees realized for the grant of such Licenses, should be credited in the Public accounts under the head "To Judicial Charges General" as "Fees realized under Act XXVIII. of 1857."

CIRCULAR No. 431 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 10th August* 1859.

WITH a view to assimilate the practice which prevails in the Department of Account in Bengal, with that which obtains in the same Department in the North Western Provinces, in respect to the mode of entering in the Public Accounts, subscriptions to the "Bengal Military Orphan" and "Medical Retiring Funds;" I have the honor to request that, in future, in charging the Civil allowances of Military and Medical Officers of the Establishment of the North Western Provinces, you will be good enough to credit the authorized deductions on account of the Funds, direct to the head "To Government of India" as amounts received on account of Bills issued upon the Sub-Treasurer at the Presidency, forwarding drafts for the amounts, minus postage, to the Secretaries of the respective Institutions, without intermediately crediting and debiting them to the Fund.

2nd.—Care should be taken, however, to append a Supplementary Statement to your Treasury Account, showing particulars of the receipts or deductions, agreeably to the form prescribed in page LVIII. of the Appendix to the Revised Edition of the Accountant's Manual.

CIRCULAR No. 432 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 11th August* 1859.

I HAVE the honor to inform you that, in lieu of the *detailed statement of miscellaneous advances*, heretofore required to be furnished to this office on occasions of making over temporary charge of a Treasury; it has been ruled, that the Officer making over charge shall only be required to furnish this office with a *letter*, signed by his *locum tenens*, as well as himself, reporting the total amount of such advances outstanding on the day of transfer. But, when the Officer relieved purposes resigning his appointment or proceeding on Furlough; in either case, a *detailed statement* attested by himself and his successor, should be furnished as at present.

CIRCULAR No. 433 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 11th August* 1859.

I HAVE the honor to request, that whenever you may be advised of the issue on your Treasury of a Second or Third of Exchange, you will have the goodness to note the fact against the First in the Column of Remarks, provided in your Register of Bills discharged.

2nd.—A similar course should be adopted when you may issue a Certificate of Non-payment of a Bill, or discharge a Second or Third from your Treasury.

CIRCULAR No. 434 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 31st August* 1859.

THE Accountant General to the Government of India having, in his Circular No. 32, prescribed the subjoined form of receipt for emergent Military Advances; I have the honor to request, with a view to secure uniformity of practice, that you will demand similar receipts in future for all emergent Military Advances, which you may have occasion to make from your Treasury.

The Pay Master of Circles, on whose drafts such advances are adjustable in the accounts of Civil Treasuries, have been instructed by the Accountant General at Fort William to accept receipts when in the prescribed form, and containing the required particulars, as sufficient for the adjustment of the advances they support without calling upon Civil Disbursing Officers for copies of Station or Division Orders.

FORM.

Received from the Officer in charge of the Civil Treasury at _____ the sum of Rupees _____ under orders issued by _____ Commanding _____ dated the _____ being for _____

(Sd.) A. B.

CIRCULAR No. 435 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 23rd August* 1859.

IN conformity to the orders of Government bearing date the 7th instant, No. 1769; I have the honor to request, that in future you will allow Officers of the Electric Telegraph Department to open Deposit accounts with you for any sums exceeding 500 Rupees, which they may tender to you for safe custody, and for eventual withdrawal in sums of not less than Rupees 250.

2nd.—You will be pleased to pass your receipts for all sums which may be deposited with you, agreeably to this Circular, and to make all repayments therefrom on cheques or orders signed by the depositor.

3rd.—Transactions of the above description should be entered in your Treasury account under the head of Deposits of the Revenue Department.

CIRCULAR No. 436 of 1859-60.—*From* F. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Agra, the 2nd September* 1859.

IN continuation of my Circular No. 435, dated 23rd ultimo, I have the honor, under instructions from the Government, N. W. Provinces, dated 26th ultimo, to request that you will receive from Officers Commanding Military Police Corps, in addition to the "Chunda Fund," Deposits to whatever Account appertaining, when they exceed Five hundred Rupees. Such Deposits are to be held on the conditions and under the Rules applicable to the Deposits of the Electric Telegraph Department, as laid down in the above Circular.

CIRCULAR No. 437 of 1859-60.—*From* J. L. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Allahabad, the 15th December* 1859.

IT having been ruled by the Director General of the Post Offices in India, in a communication from that Officer to the Superintendent of Stamps, Calcutta, under date the 3rd instant, No. 1440, that discount on Postage Stamps should be paid to purchasers at the time of purchase, whether it be demanded or not, and that no subsequent payment on that account be allowed; I have the honor to request your strict adherence to the rule in future.

CIRCULAR No. 438 of 1859-60.—*From* J. L. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Allahabad, the 17th December* 1859.

WITH reference to the orders of the Government of India, dated the 10th April 1857, directing that all tolls collected at ferries and boat bridges, on imperial lines of road, shall be credited to the State Revenues, and all expenditure thereon, debited per contra; I have the honor to request that you will open a head of "Imperial Ferry Fund," subordinate to Public Works, for the exhibition of any such transactions as may occur in your district.

Monthly bills of expenditure should be prepared by you, and submitted to the Commissioner of the Division, who, after countersignature, will forward them to the Chief Engineer for audit, or audit them himself, should the charge be within his competency.

Collections made at ferries and boat bridges, not on imperial lines of road, will continue to be credited as heretofore, under the independent head of "Ferry Fund," in the public accounts.

CIRCULAR No. 439 of 1859 60.—*From* J. L. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Allahabad, the 17th December* 1859.

The subjoined copy of a Circular, issued by the Accountant, Punjaub, is forwarded for future guidance to the of

(COPY.)—CIRCULAR No. 83.—*From* W. BALMAIN, *Esquire, Accountant, Punjaub, to the Deputy Commissioner of* *Dated Lahore, the 12th December* 1859.

I HAVE the honor to request that you will, in the preparation of your future monthly Registers of Repayments of Deposits for submission to this Office, indicate the disbursements made on account of each deposit number, as a single item, notwithstanding that the payments may have been made on different dates. By this means the number of entries will be considerably reduced, and the exhibits of the month be brought ordinarily within the compass of a single page, even in the largest disbursing Treasuries.

2*nd*.—In the column of "Date of Repayment," it will suffice to write the word "various" against items, which were repaid on more than one date. The specific date of each payment would be easily ascertained by a reference to the vouchers which should continue to be numbered in a consecutive series so as to ensure identification.

3*rd*.—It is not requisite to enter in the column of "Remarks," either the name of the payee, or the account on which the money has been paid, or the No. and date of the Treasury Warrant. This column need only be filled up when there are peculiar circumstances in the repayment which require explanation.

CIRCULAR No. 440 of 1859-60.—*From* J. L. LUSHINGTON, *Esquire, Accountant, North Western Provinces, to* *Dated Allahabad, the 24th December* 1859.

I HAVE the honor to annex, for your information and guidance, copy of a Circular, issued by the Accountant General to the Government of India, bearing date the 14th instant, No. 127, prescribing rules for the custody and sale of Electric Telegraph Stamps; which, under orders of Government, have been made available to the Public for the payment of Messages despatched from places at which there are no Telegraph Stations.

(COPY.)—CIRCULAR No. 127.—*From* E. DRUMMOND, *Esquire, Accountant General to the Government of India, to the* *Dated Fort William, the* 14*th December* 1859.

ELECTRIC Telegraph Stamps having, under recent orders of Government, been made available to the Public for the payment of Messages despatched from places at which there are no Telegraph Stations; I have the honor to request, that on the receipt of a supply, you will be good enough to attend to the following instructions, respecting the disposal of the Stamps, and the exhibition of their value in your Accounts.

The Stamps, which are of three denominations as noted in the margin,* can only be sold at the local District Treasury.

* 4-Anna Stamps.
1-Rupee Ditto.
4-Rupees Ditto.

A discount at the rate of one anna in the rupee, will be allowed on purchases of not less than 50 Rs. worth of Stamps.

Sales below 50 Rs. are to be effected by the District Treasurer, who will be allowed for his trouble, a discount of half an anna in the rupee, no discount on such sales being payable to purchasers.

The rules laid down for the custody, &c., of Judicial and Postage Stamps, are to be held generally to apply to Electric Telegraph Stamps, the value of which on receipt, as well as the balance in store, from month to month, should, as in the other two cases, be exhibited in a Plus and Minus Memo., at foot of your monthly Treasury Account, and included, when necessary, in your transfer Cash Balance Reports.

When the Stamps are sold, the gross sale proceeds must be credited, a d the discount debited per contra, under the head of "Remittances of the Electric Telegraph," with the specification noted in the margin.* No voucher for such debits, however, will be required here, as the payments will be checked with reference to the credits.

TO REMITTANCES OF THE ELECTRIC TELEGRAPH.

* Value of Stamps of the following denominations, sold this month :—				
200 Four-Anna Stamps, ...	Rs.	50	0	0
50 One-Rupee ditto, ...	„	50	0	0
54 Four-Rupees ditto, ...	„	200	0	0
			300	0 0

BY REMITTANCES OF THE ELECTRIC TELEGRAPH.

* Paid Discount, &c., as follows :—			
On sales aggregating Rs. of the value of 50 Rs. upwards, at one Anna per Rupee, ...	0	0	0
On sales aggregating Rs. of less than 50 Rs. at half Anna per Rupee,...	0	0	0
		0	0 0

You are specially enjoined to report to Government, through the usual channel, punctually at the expiration of three months from the date of receiving the Stamps into store, what number of each denomination has been sold, and whether you are of opinion that an intermediate Stamp between one Rupee and four Rupees, would be convenient.

CIRCULAR ORDERS

OF THE

CIVIL AUDITOR,

NORTH WESTERN PROVINCES,

FOR 1859.

(COPIES.)

NOTICE.

CONSIDERABLE diversity of practice existing in the preparation of the Leave Statements which accompany pay abstracts monthly when submitted for audit, the Officiating Civil Auditor, North Western Provinces, has the honor to draw attention to the Resolution of the Government of India in the Financial Department, under date the 30th April 1858, and requests that heads of Offices and Departments will have the required returns drawn out in the subjoind form, which has been prescribed by Government, and which should be strictly adhered to in future.

2*nd*.—Casual leave need not be reported to this Office.

3*rd*.—The entries in the columns should clearly show the required particulars, and the returns furnished complete monthly, otherwise they will be returned either for correction or omissions to be supplied, and the audit of abstracts suspended accordingly.

MONTHLY STATEMENT of leave of absence of every description granted to Uncovenanted Servants, drawing more than Rs. 10 per mensem in the Office of the for the month of

Name of Absentee.	Office held by Absentee.	Monthly salary.	Without leave.	Sick leave under Sections IV. and V.	Private affairs under Section VIII.	Special leave on private affairs under Section IX.	Privilege leave under Section VII.	Period of Absence during the month.	Amount of deduction from the salaries.	Rate of deduction.	Name of substitute (if any.)	Amount payable to substitute.	Net amount to be retrenched from pay abstract for the above month.	Remarks.

CIVIL AUDITOR'S OFFICE,
N. W. PROVINCES,
Allahabad, the 22nd July 1859.

I have, &c.,
(Signed) J. A. LOCH,
Offg. Civil Auditor, N. W. Provinces.

NOTIFICATION No. 1237.—The Officiating Civil Auditor, North Western Provinces, under instructions from Government, has the honor to draw the attention of all Disbursing Officers in the Civil Department to Article 277, Civil Auditor's Manual; and requests that its requirements be attended to with the strictest punctuality in future to ensure the early disposal of their Pay Abstracts, and facilitate the course of audit. For easy reference a copy of the article in question is herewith subjoined.

"Officers are to enter on the abstract of office establishment the full amount of salaries (absentees inserted in red ink) and other regular authorized charges, noting on the reverse, and deductions which are to be made on account of vacancies, leave of absence, &c.,"

CIVIL AUDITOR'S OFFICE,
N. W. PROVINCES,
Allahabad, the 17th December 1859.

(Signed) J. EEDE,
Offg. Civil Auditor, N. W. Provinces.

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